



# REQUEST FOR PROPOSALS

SOLICITATION NO. DHMH OPASS- #14-10960

Issue Date: March 11, 2013

## **DEVELOPMENTAL DISABILITIES ADMINISTRATION (DDA) UTILIZATION REVIEW AND AUTHORIZATION OF SERVICES (UR/AOS)**

### **NOTICE**

Prospective Offerors that have received this document from the Department of Health and Mental Hygiene's website or <https://emaryland.buyspeed.com>, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that addenda to the RFP or other communications can be sent to them.

**Minority Business Enterprises Are Encouraged to Respond to this Solicitation**

**STATE OF MARYLAND  
NOTICE TO VENDORS**

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposals. If you have chosen not to respond on this Contract, please fax this completed form to: (410) 333-5958 to the attention of the Procurement Officer.

**Title:** Developmental Disabilities Administration (DDA) Utilization Review and Authorization of Services (UR/AOS)

**Solicitation No:** OPASS 14-10960

1. If you have responded with a "no response," please indicate the reason(s) below:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not something we ordinarily provide.
- ☐ We are inexperienced in the work/commodities required.
- ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- ☐ The scope of work is beyond our present capacity.
- ☐ Doing business with Maryland Government is simply too complicated. (Explain in REMARKS section.)
- ☐ We cannot be competitive. (Explain in REMARKS section.)
- ☐ Time allotted for completion of the bid/proposal is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- ☐ Bid/Proposals requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- ☐ MBE requirements. (Explain in REMARKS section.)
- ☐ Prior State of Maryland Contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- ☐ Payment schedule too slow.
- ☐ Other: \_\_\_\_\_

2. If you have submitted a proposal, but wish to offer suggestions or express concerns, please use the Remarks section below. (Attach additional pages as needed.).

REMARKS:

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Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

**STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
KEY INFORMATION SUMMARY SHEET**

**Request for Proposals:** Developmental Disabilities Administration (DDA) Utilization Review and Authorization of Services (UR/AOS)

**Solicitation Number:** DHMH OPASS – 14-10960

**Issue Date:** March 11, 2013

**RFP Issuing Office:** Maryland Department of Health and Mental Hygiene  
Developmental Disabilities Administration

**Procurement Officer:** Sharon R. Gambrill, CPPB  
201 W. Preston St., Room 416B  
Baltimore, MD 21201  
Phone: (410) 767-5117 Fax: (410) 333-5958  
e-mail: [sharon.gambrill@maryland.gov](mailto:sharon.gambrill@maryland.gov)

**Contract Monitor:** Nancy Hatch  
Developmental Disabilities Administration  
201 West Preston Street, 4<sup>th</sup> Floor  
Baltimore, MD 21201  
Phone Number: (410) 767-5431  
Fax Number: (410) 333-7441  
Email: [nancy.hatch@maryland.gov](mailto:nancy.hatch@maryland.gov)

**Proposals are to be sent to:** Maryland Department of Health and Mental Hygiene  
201 W. Preston St. 4<sup>th</sup> floor, Room 416  
Baltimore, MD 21201  
Attention: Sharon Gambrill, Procurement Officer

**Pre-Proposal Conference:** Wednesday, March 20, 2013 @ 2:00 p.m., Local Time  
Developmental Disabilities Administration  
Central Maryland Regional Office  
1401 Severn Street, Suite 200  
Baltimore, MD 21230

**Closing Date and Time:** Monday, April 1, 2013 2:00 p.m., Local Time

**MBE Subcontracting Goal:** 5%

**VSBE Subcontracting Goal:** .5%

## Table of Contents

<b>SECTION 1 - GENERAL INFORMATION.....</b>	<b>6</b>
1.1 SUMMARY STATEMENT .....	6
1.2 ABBREVIATIONS AND DEFINITIONS .....	6
1.3 CONTRACT TYPE.....	8
1.4 CONTRACT DURATION .....	8
1.5 PROCUREMENT OFFICER.....	9
1.6 CONTRACT MONITOR .....	9
1.7 PRE-PROPOSAL CONFERENCE.....	10
1.8 eMARYLANDMARKETPLACE .....	10
1.9 QUESTIONS .....	10
1.10 PROPOSALS DUE (CLOSING) - DATE AND TIME.....	10
1.11 DURATION OF OFFER .....	11
1.12 REVISIONS TO THE RFP .....	11
1.13 CANCELLATIONS; DISCUSSIONS .....	11
1.14 ORAL PRESENTATION .....	11
1.15 INCURRED EXPENSES .....	12
1.16 ECONOMY OF PREPARATION.....	12
1.17 PROTESTS/DISPUTES .....	12
1.18 MULTIPLE OR ALTERNATE PROPOSALS .....	12
1.19 PUBLIC INFORMATION ACT NOTICE .....	12
1.20 OFFEROR RESPONSIBILITIES .....	12
1.21 MANDATORY CONTRACTUAL TERMS.....	13
1.22 BID/PROPOSAL AFFIDAVIT .....	13
1.23 CONTRACT AFFIDAVIT.....	13
1.24 MINORITY BUSINESS ENTERPRISE GOALS.....	13
1.25 COMPLIANCE WITH LAWS/ARREARAGES .....	14
1.26 PROCUREMENT METHOD .....	14
1.27 VERIFICATION OF REGISTRATION AND TAX PAYMENT .....	14
1.28 FALSE STATEMENTS .....	15
1.29 PAYMENTS BY ELECTRONIC FUNDS TRANSFER .....	15
1.30 LIVING WAGE REQUIREMENTS.....	15
1.31 PROMPT PAYMENT POLICY.....	16
1.32 FEDERAL FUNDING ACKNOWLEDGEMENT .....	16
1.33 HIPAA - BUSINESS ASSOCIATE AGREEMENT .....	16
1.34 CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE .....	16
1.35 NONVISUAL ACCESS .....	17
1.36 ELECTRONIC PROCUREMENTS AUTHORIZED.....	17
1.37 SUBSTITUTION OF PERSONNEL .....	18
1.38 NON-DISCLOSURE AGREEMENT .....	21
1.39 VETERAN-OWNED SMALL BUSINESS ENTERPRISE GOALS.....	21
1.40 CONFLICT MINERALS NOTICE .....	22
1.41 LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE.....	23
1.42 INVESTMENT ACTIVITIES IN IRAN CERTIFICATION.....	23
<b>SECTION 2 – MINIMUM QUALIFICATIONS .....</b>	<b>24</b>
2.1 MINIMUM QUALIFICATIONS .....	24
<b>SECTION 3 – SCOPE OF WORK .....</b>	<b>25</b>
3.1 PURPOSE .....	25
3.2 BACKGROUND.....	25

3.3	GENERAL WORK REQUIREMENTS .....	27
3.4	SPECIFIC WORK REQUIREMENTS .....	27
3.5	PERSONNEL REQUIREMENTS .....	29
3.6	REPORTS .....	29
3.7	SECURITY REQUIREMENTS .....	30
3.8	MBE REPORTS .....	31
3.9	VSBE REPORTS .....	31
3.10	INVOICING.....	32
3.11	INSURANCE REQUIREMENTS.....	32
3.12	PROBLEM ESCALATION PROCEDURE .....	33
3.13	INTERPRETATION SERVICES.....	34
<b>SECTION 4 – PROPOSAL FORMAT .....</b>		<b>35</b>
4.1	TWO PART SUBMISSION.....	35
4.2	PROPOSALS .....	35
4.3	DELIVERY .....	35
4.4	VOLUME I – TECHNICAL PROPOSAL .....	36
4.5	VOLUME II - FINANCIAL PROPOSAL .....	41
<b>SECTION 5 – EVALUATION COMMITTEE, EVALUATION CRITERIA, AND SELECTION PROCEDURE.....</b>		<b>42</b>
5.1	EVALUATION COMMITTEE.....	42
5.2	TECHNICAL PROPOSAL EVALUATION CRITERIA.....	42
5.3	FINANCIAL CRITERIA .....	42
5.4	RECIPROCAL PREFERENCE.....	42
5.5	SELECTION PROCEDURES.....	42
<b>SECTION 6 - ATTACHMENTS.....</b>		<b>45</b>
ATTACHMENT A – CONTRACT .....		47
ATTACHMENT B – BID/PROPOSAL AFFIDAVIT .....		59
ATTACHMENT C – CONTRACT AFFIDAVIT .....		64
ATTACHMENT D – MINORITY BUSINESS ENTERPRISE FORMS .....		67
ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM .....		80
ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS & FORM.....		81
ATTACHMENT F – FINANCIAL PROPOSAL FORM .....		82
ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS.....		83
ATTACHMENT G-1 - MARYLAND LIVING WAGE AFFIDAVIT OF AGREEMENT .....		85
ATTACHMENT H – FEDERAL FUNDS ATTACHMENT .....		87
ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE .....		94
ATTACHMENT J – BUSINESS ASSOCIATE AGREEMENT .....		95
ATTACHMENT J-1 - BREACH OF UNSECURED PROTECTED HEALTH INFORMATION .....		101
ATTACHMENT K – NON-DISCLOSURE AGREEMENT (AWARD).....		102
ATTACHMENT L – VETERAN-OWNED SMALL BUSINESS ENTERPRISE.....		106
ATTACHMENT M – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE.....		111
ATTACHMENT N – CERTIFICATION REGARDING INVESTMENTS IN IRAN .....		112
ATTACHMENT O – AUDIT REPORT FOR FAMILY/INDIVIDUAL SUPPORT SERVICES FORM .....		113
ATTACHMENT P – CSLA UTILIZATION REVIEW AUDIT FORM .....		116
ATTACHMENT Q – AUDIT MATERIAL CHECKLIST AND PRELIMINARY FINDINGS HEALTHCARE FORM .....		120
ATTACHMENT R – REQUEST FOR SERVICE CHANGE FORM .....		121

## **SECTION 1 - GENERAL INFORMATION**

### **1.1 Summary Statement**

- 1.1.1 The Department of Health and Mental Hygiene (DHMH), Developmental Disabilities Administration (DDA) is seeking a Contractor to conduct, on a statewide basis for the DDA, service authorization for Requests for Service Change (RFSCs), review of high utilization services add-ons, and utilization review of existing services funded by the DDA.
- 1.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the successful Offeror and the State.
- 1.1.3 The Department intends to make a single award as a result of this RFP to the Offeror whose proposal is deemed to be the most advantageous to the State.
- 1.1.4 Offerors, either directly or through their subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for contract performance regardless of subcontractor participation in the work.

### **1.2 Abbreviations and Definitions**

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- a. **Add-ons** – These are costs not covered in base rates such as transportation, professional services, and services not covered by Medical Assistance (MA) if a person receives MA. The rates are determined by the hours of support not funded by the base rate, multiplied by the hourly rate.
- b. **Appeal Rights**-- Any person aggrieved by a final decision by DDA has the right to appeal. The appeal process and rights differ slightly based on the program (i.e. State-only funded program versus Medicaid Waiver program). DDA has established appeal processes for both programs. See: <http://dda.dhmf.maryland.gov/SitePages/LISS/Request%20for%20Service%20Change%20Protocol%2010-15-10%20pdf.pdf>
- c. **Business Days** - Monday through Friday, official working days excluding State Holidays (see definition for “Normal State Business Hours” below).
- d. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).
- e. **Community Supported Living Arrangement (CSLA)** - This DDA waiver provides individuals with a full range of community based support necessary to enable them to live in their own homes, apartments, family homes, or rental units.
- f. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
- g. **Contract Monitor (CM)** – The State representative for this Contract who is primarily responsible for contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope.
- h. **Contractor** – The selected Offeror that is awarded a Contract by the State.

- i. **DHMH or the Department** – Maryland Department of Health and Mental Hygiene.
- j. **EMM – eMaryland Marketplace** – see RFP Section 1.8.
- k. **Family Support Services (FSS)** - Support services designed to help families stay together; services for emotional, physical and financial support. These services are intended to be flexible and responsive to what the family needs, when they need it.
- l. **Fee Payment System (FPS)** – The system used to fund residential, day and supported employment services. A per-day payment is made based upon the sum of the service provider component, the individual component, and any add-on components.
- m. **Go-Live Date** – means the date when the Contractor must begin providing all services required by this solicitation.
- n. **Individual Family Care (IFC)** – This is a private, single family residence which provides a home for up to three individuals with developmental disabilities, who are unrelated to the care provider.
- o. **Individual Support Services (ISS)** – Support services other than Residential and Day Habilitation care for adults living with their families or on their own. ISS includes respite care, transportation, environmental modifications, adaptive equipment, money management and home skills.
- p. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- q. **Low Intensity Support Services (LISS)** - Support services in accordance with COMAR 10.22.06. Designed to be one-time only with a cap per individual per year, to assist children and adults with developmental disabilities to improve their quality of life, remain in their own homes, increase independence, and participate in their communities.
- r. **Mental Hygiene Administration (MHA)** provides mental hygiene services for adults, children and adolescence, special needs populations and forensic services.
- s. **Minority Business Enterprise (MBE)** – means any legal entity certified as defined at COMAR 21.01.02.01B(54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- t. **Normal State Business Hours** – Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- u. **Notice to Proceed** – (NTP) A letter from the Contract Monitor to the Contractor stating the date the Contractor can begin work subject to the conditions of the Contract.
- v. **Offeror** – An entity that submits a Proposal in response to this RFP.
- w. **Procurement Coordinator** – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which are expressly set forth herein.
- x. **Procurement Officer** – The State representative for the resulting Contract. The Procurement Officer is responsible for the Contract and is the only State representative who can authorize changes to the Contract. DHMH may change the Procurement Officer at any time by written notice to the Contractor.
- y. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.

- z. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Department of Health and Mental Hygiene, Developmental Disabilities Administration, Solicitation Number OPASS #14-10960 dated March 11, 2013, including any addenda.
- aa. **Request for Service Change (RFSC)** – Process for a waiver recipient to request additional or different waiver services. ( <http://dda.dhmh.maryland.gov/SitePages/LISS/RFSC%20Overview%2010-1-10%20FINAL.pdf>.)
- bb. **Self-Directed Fiscal Management (SDFM)** – Component of the New Directions waiver to assist waiver participants in managing their funds and bills.
- cc. **Supported Employment (SE)** – These are community-based services that provide the supports necessary for individuals to obtain and maintain work in the community. Supports may include job skills training, job development, vocational assessment, and ongoing job coaching support.
- dd. **State** – The State of Maryland.
- ee. **Team** – means those persons, including the individual, proponent, licensee representatives, resource coordinator, and others involved in the development of the IP.
- ff. **Veteran-owned Small Business Enterprise (VSBE)** – a business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- gg. **Working Day** - Same as “Business Day.”

### 1.3 Contract Type

The Contract resulting from this RFP shall be an indefinite quantity contract with fixed unit prices as defined at COMAR 21.06.03.06A(2).

### 1.4 Contract Duration

The service period of this Contract shall be for a period of approximately three (3) years beginning on or about July 1, 2013 and ending June 30, 2016. The Contractor shall provide services as specified in a Notice to Proceed (NTP) from the Contract Monitor.

- 1.4.1 The Contract that results from this RFP shall commence as of the date the Contract is signed by the Department following approval of the Contract by the Board of Public Works, if such approval is required (“Contract Commencement”).
- 1.4.2 From the date of Contract Commencement through approximately July 1, 2013, or a later date contained in a Notice to Proceed issued by the Contract Monitor, the Contractor shall perform start-up activities such as are necessary to enable the Contractor to begin the successful performance of Contract activities as of the Go-Live Date. No compensation will be paid to the Contractor for any start-up activities it performs between the date of Contract Commencement and the Go Live Date.
- 1.4.3 As of July 1, 2013, or a later date as contained in a Notice to Proceed issued by the Contract Monitor Officer, (the “Go Live Date”) the Contractor shall begin performing all activities required by the Contract, including the requirements of the RFP, and the offerings in the Technical Proposal, for the compensation contained in the Financial Proposal.



- 1.4.4 The Contractor's obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see **Attachment A**) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

## **1.5 Procurement Officer**

- 1.5.1 Except for the Procurement Coordinator identified in 1.5.2, the sole point of contact in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer at the address listed below:

Sharon R. Gambrill, CPPB  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street, Room 416B  
Baltimore, Maryland 21201  
Phone Number: (410) 767-5117  
Fax Number: (410) 333-5958  
E-mail: [Sharon.Gambrill@maryland.gov](mailto:Sharon.Gambrill@maryland.gov)

DHMH may change the Procurement Officer at any time by written notice.

- 1.5.2 The Procurement Officer designates the following individual as the Procurement Coordinator, who is authorized to act on behalf of the Procurement Officer only as expressly set forth in this solicitation:

Michele Ferges  
Maryland Department of Health and Mental Hygiene  
Developmental Disabilities Administration  
201 W. Preston Street  
Baltimore, MD 21201  
Phone Number: (410) 767-6001  
Fax Number: (410) 767-5850  
E-mail: [michele.ferges@maryland.gov](mailto:michele.ferges@maryland.gov)

DHMH may change the Procurement Coordinator at any time by written notice.

## **1.6 Contract Monitor**

The Contract Monitor is:

Nancy Hatch  
Maryland Department of Health and Mental Hygiene  
Developmental Disabilities Administration  
201 W. Preston Street, 4<sup>th</sup> Floor  
Baltimore, MD 21201  
Phone Number: (410) 767-5431  
Fax Number: (410) 333-7441  
Email: [nancy.hatch@maryland.gov](mailto:nancy.hatch@maryland.gov)

DHMH may change the Contract Monitor at any time by written notice.

## **1.7 Pre-Proposal Conference**

A Pre-Proposal Conference (the Conference) will be held on **Wednesday, March 20, 2013** beginning at **2:00 p.m.**, Local Time, at **Developmental Disabilities Administration, Central Maryland Regional Office, 1401 Severn Street, Suite 200, Baltimore, MD 21230**. Attendance at the Conference is not mandatory, but all prospective Offerors are encouraged to attend in order to facilitate better preparation of their proposals.

The Conference will be summarized. As promptly as is feasible, subsequent to the Conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace (see RFP §1.8).

In order to assure adequate seating and other accommodations at the Conference, please mail, e-mail, or fax the Pre-Proposal Conference Response Form to the attention of the Procurement Coordinator no later than 4:00 p.m. Local Time on Monday, March 18, 2013. The Pre-Proposal Conference Response Form is included as **Attachment E** to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Coordinator no later than Monday, March 18, 2013. DHMH will make a reasonable effort to provide such special accommodation.

## **1.8 eMarylandMarketplace**

Each Offeror is requested to indicate its eMaryland Marketplace (eMM) vendor number in the Transmittal Letter (cover letter) submitted at the time of its Technical Proposal submission to this RFP.

eMM is an electronic commerce portal administered by the Maryland Department of General Services. In addition to using the DHMH website <http://www.dhmfh.maryland.gov/opass/SitePages/Home.aspx> and possibly other means for transmitting the RFP and associated materials, a summary of the Conference, Offeror questions and Department responses, addenda, and other solicitation related information will be provided via eMM.

In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bsol/login.jsp>, click on "Register" to begin the process, and then follow the prompts.

## **1.9 Questions**

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions may be submitted by mail, facsimile, or preferably, by e-mail to the Procurement Officer with a copy to the Procurement Coordinator. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer with a copy to the Procurement Coordinator in a timely manner prior to the proposal due date. Questions are requested to be submitted at least five (5) days prior to the proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answers to be taken into consideration in proposals.

## **1.10 Proposals Due (Closing) - Date and Time**

Proposals, in the number and form set forth in Section 4.2 “Proposals” must be received by the Procurement Officer at the address listed on the Key Information Summary Sheet no later than **Monday, April 1, 2013 2:00 p.m., Local Time** in order to be considered.

Requests for extension of this date or time will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, proposals received by the Procurement Officer after the due date and time listed in this section will not be considered.

Proposals may be modified or withdrawn by written notice to the Procurement Officer before the time and date set forth in this section for receipt of Proposals.

**Proposals may not be submitted by e-mail or facsimile.**

**Vendors not responding to this solicitation are requested to submit the “Notice to Vendors” form**, which includes company information **and the reason for not responding** (e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

### **1.11 Duration of Offer**

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date for submission of proposals or of Best and Final Offers (BAFOs), if requested. This period may be extended at the Procurement Officer’s request only with the Offeror’s written agreement.

### **1.12 Revisions to the RFP**

If it becomes necessary to revise this RFP before the due date for Proposals, the Department shall endeavor to provide addenda to all prospective Offerors that were sent this RFP or which are otherwise known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the DHMH Current Procurements web page and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any addenda issues prior to the submission of proposals. Addenda made after the due date for Proposals will be sent only to those Offerors that submitted a timely Proposal and that remain under award consideration as of the issuance date of the addenda.

Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date must accompany the Offeror’s proposal in the Transmittal Letter accompanying the Technical Proposal. Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum.

### **1.13 Cancellations; Discussions**

The State reserves the right to cancel this RFP, to accept or reject any and all Proposals, in whole or in part (unless the Offeror specifies in its Proposal that a partial or progressive award is not acceptable), received in response to this RFP, to waive or permit the cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without discussions or negotiations.

### **1.14 Oral Presentation**

Offerors may be required to make oral presentations to State representatives. Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions. Any such written

clarifications or changes then become part of the Offeror's Proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations.

### **1.15 Incurred Expenses**

The State will not be responsible for any costs incurred by an Offeror in preparing and submitting a proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities related to this solicitation.

### **1.16 Economy of Preparation**

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror's Proposal to meet the requirements of this RFP.

### **1.17 Protests/Disputes**

Any protest or dispute related respectively to this solicitation or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

### **1.18 Multiple or Alternate Proposals**

Multiple and/or alternate proposals will not be accepted.

### **1.19 Public Information Act Notice**

An Offeror should give specific attention to the clear identification of those portions of its proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6. (Also, see RFP Section 3.4.3.2 "Claim of Confidentiality"). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical and if applicable, separately in the Financial Proposal.

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

### **1.20 Offeror Responsibilities**

The selected Offeror shall be responsible for rendering services for which it has been selected as required by this RFP. All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. Additional information regarding MBE subcontractors is provided in Section 1.24 "Minority Business Enterprise Goals."

If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, such as but not limited to, references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary. Subcontractors retained for the sole purpose of meeting the established MBE participation goal(s) for this solicitation shall be identified as provided in Attachment D of this RFP.

A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualification of the parent are transferred to and shared with the Offeror, the parent is directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

### 1.21 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Contract, attached as Attachment A. **Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the technical proposal.** A proposal that takes exception to these terms may be rejected.

### 1.22 Bid/Proposal Affidavit

A Proposal submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment B** of this RFP.

### 1.23 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) business days of notification of proposed Contract award

### 1.24 Minority Business Enterprise Goals

A minimum overall MBE subcontractor participation goal of **5%** of the total dollar amount of the contract award has been established for the services resulting from this Contract.

1.24.1 **Attachment D** – Minority Business Enterprise participation, instructions, and forms are provided to assist offerors. An offeror must include with its proposal a completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) whereby:

- (a) The offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (b) The offeror responds to the expected degree of MBE participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission. The offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.

***If a bidder or offeror fails to submit Attachment D-1 with the bid or offer as required, the Procurement Officer shall deem the bid non-responsive or the offeror shall be deemed not reasonably susceptible of being selected for contract award.***

1.24.2 Offerors are responsible for verifying that each of the MBE(s) selected to meet the subcontracting goal and subsequently identified in **Attachment D-1** is appropriately certified and has the correct NAICS codes allowing it to perform the intended work.

- 1.24.3 Within ten (10) Working Days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.
- (a) Outreach Efforts Compliance Statement (**Attachment D-2**)
  - (b) Subcontractor Project Participation Certification (**Attachment D-3**)
  - (c) If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11.
  - (d) Any other documentation required by the Procurement Officer to ascertain Bidder or Offeror responsibility in connection with the certified MBE participation goal.

*If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for Contract award. If the Contract has already been awarded, the award is voidable.*

- 1.24.4 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, P.O. Box 548, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available at the MDOT website at <http://www.mdot.state.md.us>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT certified MBEs may be used to meet the MBE subcontracting goals.**
- 1.24.5 The Contractor, once awarded a contract, will be responsible for submitting, or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:
- (a) **Attachment D-4** (MBE Participation Prime Contract Paid/Unpaid MBE Invoice Report).
  - (b) **Attachment D-5** (MBE Participation Subcontractor/Contractor Unpaid MBE Invoice Report).

## **1.25 Compliance with Laws/Arrearages**

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all Federal, State, and local laws applicable to its activities and obligations under the Contract.

By submitting a response to this solicitation, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and that it shall not become in arrears during the term of the Contract if selected for Contract award.

## **1.26 Procurement Method**

This Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

## **1.27 Verification of Registration and Tax Payment**

Before a corporation can do business in the State it must be registered with the Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://www.dat.state.md.us/sdatweb/datanote.html>.

It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of Proposals. An Offeror's failure to complete registration SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

## **1.28 False Statements**

Offerors are advised that Md. Ann. Code, State Finance and Procurement Article, §11-205.1 provides as follows:

1.28.1 In connection with a procurement contract a person may not willfully:

- (a) Falsify, conceal, or suppress a material fact by any scheme or device;
- (b) Make a false or fraudulent statement or representation of a material fact; or
- (c) Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

1.28.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.

1.28.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five years or both.

## **1.29 Payments by Electronic Funds Transfer**

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$100,000. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at: <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>.

## **1.30 Living Wage Requirements**

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Md. Code Ann., State Finance and Procurement Article, Title 18. Additional information regarding the State's living wage requirement is contained in **Attachment G**. Offerors must complete and submit the Maryland Living Wage Affidavit of Agreement (**Attachment G-1**) with their Proposal. If an Offeror fails to complete and submit the required documentation, the State may determine an Offeror to be not responsible under State law.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

The Contract resulting from this solicitation will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Technical Proposal the location(s) from which services will be provided.

- If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
- If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.

**If the Contractor provides more than 50% of the services from an out-of-State location, then the appropriate Tier will be determined by where the majority of recipients of the services are located. The**

**majority of recipients of services from this RFP are located in the Tier 1 region.** The Offeror must identify in its Technical Proposal the location(s) from which 50% or more of the Contract services will be provided.

Information pertaining to reporting obligations may be found by going to the Department of Labor, Licensing and Regulation (DLLR) Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

**NOTE: Whereas the Living Wage may change annually, the Contract price may not be changed because of a Living Wage change.**

### **1.31 Prompt Payment Policy**

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3 and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements as outlined in the Contract, Section 31 "Prompt Payment." (See **Attachment A**). Additional information is available on GOMA's website at:

[http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs\\_000.pdf](http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf)

### **1.32 Federal Funding Acknowledgement**

- 1.32.1 There (☐ are) (☒ are not) programmatic conditions that apply to this Contract, regardless of the type of funding.
- 1.32.2 The total amount of Federal funds allocated for the Developmental Disabilities Administration is \$363,861,032 in Maryland State fiscal year 2013. This represents 42.3% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.
- 1.32.3 This Contract (☒ does) (☐ does not) contain federal funds. If contained, the source of these federal funds is: Medical Assistance Program. The CFDA number is: 93.778. The conditions that apply to all federal funds awarded by the Department are contained in the Federal Funds **Attachment H**. Acceptance of the terms of this Attachment indicates the Contractor's intent to comply with all such conditions, which are part of the Contract agreement.

### **1.33 HIPAA - Business Associate Agreement**

Based on the determination by DHMH that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in HIPAA, the Offeror shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. §164.501 and set forth in **Attachment J**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award, however, to expedite processing, it is suggested that this document be completed and submitted with the proposal. Should the Business Associate Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the next highest-ranked, qualified Offeror.

### **1.34 Conflict of Interest Affidavit and Disclosure**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel



who perform or control work under this Contract shall be required to complete agreements such as **Attachment I** Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08. Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure and submit it with their proposals.

### **1.35 Nonvisual Access**

By submitting a proposal, the Offeror warrants that the information technology offered under the proposal: (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access will not increase the cost of the information technology by more than five percent (5%). For purposes of this solicitation and the resulting Contract, the phrase “equivalent access” means the ability to receive, use, and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

The Nonvisual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations. See [www.doit.maryland.gov](http://www.doit.maryland.gov) – keyword: nva.

### **1.36 Electronic Procurements Authorized**

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, DHMH may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the bidder/offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- C. “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com>), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.29 “Payments by Electronic Funds Transfer”) and subject to the exclusions noted in Section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
  - 1. The Procurement Officer may conduct the procurement using eMM, e-mail or facsimile to issue:
    - (a) the solicitation (e.g., the RFP);
    - (b) any amendments;
    - (c) pre-proposal conference documents;
    - (d) questions and responses;
    - (e) communications regarding the solicitation or proposal to any Offeror or potential Offeror including requests for clarification, explanation, or removal of elements of an Offeror’s proposal deemed not acceptable;

- (f) notices of award selection or non-selection; and
- (g) the Procurement Officer's decision on any bid protest or Contract claim.

2. An Offeror or potential Offeror may use e-mail or facsimile to:

- (a) ask questions regarding the solicitation;
- (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
- (c) request a debriefing; or
- (d) submit a "No Bid Response" to the solicitation.

3. The Procurement Officer, the State's Contract Monitor and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.

E. The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:

- 1. submission of initial bids or proposals;
- 2. filing of bid protests;
- 3. filing of Contract claims;
- 4. submission of documents determined by DHMH to require original signatures (e.g., Contract execution, Contract modifications, etc.); or
- 5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor, Bidder or Offeror be provided in writing or hard copy.

F. Any facsimile or electronic mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

### **1.37 Substitution of Personnel**

A. Continuous Performance of Key Personnel

Unless substitution is approved per paragraphs B-D of this section, key personnel shall be the same personnel proposed in the Contractor's Technical Proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor's Technical Proposal, without the prior written approval of the Contract Monitor.

If the Contract is task order based, the provisions of this section apply to key personnel identified in each task order proposal and agreement.

B. Definitions

For the purposes of this section, the following definitions apply:

**Extraordinary Personal Circumstance** – means any circumstance in an individual's personal life that reasonably requires immediate and continuous attention for more than fifteen (15) days and that precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances may include, but are not limited to, a sudden leave of absence to care for a family member who is injured, sick, or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the

deceased or his/her dependents; substantial damage to, or destruction of, the individual's home that causes a major disruption in the individual's normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; and military service call-up.

**Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.

**Sudden** – means when the Contractor has less than thirty (30) days' prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

#### C. Key Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of staff substitution described in paragraph D of this section.

1. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute key personnel have qualifications at least equal to those of the key personnel for whom the replacement is requested.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
  - A detailed explanation of the reason(s) for the substitution request;
  - The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
  - The official resume of the current personnel for comparison purposes; and
  - Any evidence of any required credentials.
3. The Contract Monitor may request additional information concerning the proposed substitution. In addition, the Contract Monitor and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
4. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a requested key personnel replacement.

#### D. Replacement Circumstances

##### 1. Voluntary Key Personnel Replacement

To voluntarily replace any key personnel, the Contractor shall submit a substitution request as described in paragraph C of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph D.2 of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

##### 2. Key Personnel Replacement Due to Vacancy

The Contractor shall replace key personnel whenever a vacancy occurs due to the sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per Section D.1 of this section.).

Under any of the circumstances set forth in this paragraph D.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph C of this section within

fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

### 3. Key Personnel Replacement Due to an Indeterminate Absence

If any key personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information or items to the Contract Monitor as required under paragraph C of this section.

However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor, at the option and sole discretion of the Contract Monitor, the original personnel may continue to work under the Contract, or the replacement personnel will be authorized to replace the original personnel, notwithstanding the original personnel's ability to return.

### 4. Directed Personnel Replacement

- a. The Contract Monitor may direct the Contractor to replace any personnel who are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, agency, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 4.b. If after such remediation the Contract Monitor determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the personnel with less than fifteen (15) days' notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with paragraph C of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

- b. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor shall give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within ten (10) days of the date of the notice and shall implement the Remediation Plan immediately upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.

Should performance issues persist despite the approved Remediation Plan, the Contract Monitor will give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the key personnel at issue.

Replacement or substitution of personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law.

### 1.38 Non-Disclosure Agreement

All Offerors are advised that this solicitation and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as **Attachment K**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award; however, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

### 1.39 Veteran-Owned Small Business Enterprise Goals

#### 1.39.1 NOTICE TO BIDDERS/OFFERORS

Questions or concerns regarding the Veteran-Owned Small Business Enterprise (VSBE) goals of this solicitation must be raised before the opening of bids or receipt of initial proposals.

#### 1.39.2 PURPOSE

The Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the VSBE goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment L**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment L**.

#### 1.39.3 VSBE GOALS

A VSBE subcontract participation goal of .5 % of the total contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror agrees that this percentage of the total dollar amount of the contract will be performed by verified veteran-owned small business enterprises.

#### 1.39.4 SOLICITATION AND CONTRACT FORMATION

A bidder or offeror must include with its bid or offer a completed Veteran-Owned Small Business Enterprise Utilization Affidavit and Subcontractor Participation Schedule (**Attachment L-1**) whereby:

- (1) the bidder or offeror acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the bidder or offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal.
- (2) the bidder or offeror responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of submission. The bidder or offeror shall specify the percentage of contract value associated with each VSBE subcontractor identified on the VSBE Participation Schedule.

***If a bidder or offeror fails to submit Attachment L1 with the bid or offer as required, the Procurement Officer may determine that the bid is non-responsive or that the proposal is not reasonably susceptible of being selected for award.***

Within 10 Working Days from notification that it is apparent awardee, the awardee must provide the following documentation to the Procurement Officer.

- (1) VSBE Subcontractor Project Participation Statement (**Attachment L-2**);
- (2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully-documented waiver request that complies with COMAR 21.11.13.07; and

- (3) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the VSBE participation goal.

***If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award.***

#### 1.39.5 CONTRACT ADMINISTRATION REQUIREMENTS

The Contractor, once awarded the Contract shall:

1. Submit monthly to the Department a report listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice, and the reason payment has not been made.
2. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.
5. At the option of the procurement agency, upon completion of the Contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE subcontractors.

### **1.40 Conflict Minerals Notice**

Offerors are advised that Md. Ann. Code, State Finance and Procurement Article, § 14-413 provides as follows:

- (a)
  - (1) In this section the following words have the meanings indicated.
  - (2)
    - (i) "Conflict mineral" means a mineral or mineral derivative determined under federal law to be financing human conflict.
    - (ii) "Conflict mineral" includes columbite-tantalite (coltan), cassiterite, gold, wolframite, or derivatives of these minerals.
  - (3) "Noncompliant person" means a person:
    - (i) that is required to disclose under federal law information relating to conflict minerals that originated in the Democratic Republic of the Congo or its neighboring countries; and
    - (ii) for which the disclosure is not filed, is considered under federal law to be an unreliable determination, or contains false information.
- (b) A unit may not knowingly procure supplies or services from a noncompliant person.

By submitting a response to this solicitation, the Offeror represents that it is in compliance with the disclosure requirements related to conflict minerals, as set forth in § 14-413 of the State Finance and Procurement Article.

#### **1.41 Location of the Performance of Services Disclosure**

A proposal submitted by an Offeror must be accompanied by a completed Location of the Performance of Services Disclosure. A copy of this Disclosure is included as **Attachment M** of this RFP.

#### **1.42 Investment Activities in Iran Certification**

The Offeror is required to complete the Investment Activities in Iran Certification. A copy of this Certification is included as **Attachment N**. The Certification must be provided with the Technical Proposal.

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## **SECTION 2 – MINIMUM QUALIFICATIONS**

### **2 Minimum Qualifications**

#### **2.1 Medicaid-Eligible Provider**

2.1.1 In order to submit a proposal and be eligible for award, an Offeror must be a Medicaid-eligible provider meaning not on the following exclusion lists. An Offeror must not be on the Health and Human Services (HHS) Office of the Inspector General's List of Excluded Individuals and Entities (LEIE), or the federal General Services Excluded Parties list (EPLS). Links to the LEIE and EPLS lists are as follows:

- a. LEIE: Go here: [http://oig.hhs.gov/exclusions/exclusions\\_list.asp](http://oig.hhs.gov/exclusions/exclusions_list.asp)
- b. EPLS: Go here: <https://www.epls.gov/eplsjsp/FAQ.jsp>

2.1.2 An Offeror must provide a self-certification with its Proposal that it is not on the LEIE or EPLS lists.

#### **2.2 Minimum Experience**

2.2.1 The Offeror must have a minimum of three (3) years of experience of public sector utilization review of services for people with disabilities, including proof or certification of conducting at least 500 performance audits per year for people receiving developmental disability services.

2.2.2 An Offeror must provide at least three (3) references from the past five (5) years that are able to certify the Offeror's past experience as required above.

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## **SECTION 3 – SCOPE OF WORK**

### **3.1 Purpose**

The Department of Health and Mental Hygiene (DHMH), Developmental Disabilities Administration (DDA) is seeking a Contractor to conduct, on a statewide basis for the DDA, service authorization for Requests for Service Change (RFSCs), review of high utilization services add-ons, and utilization review of existing services funded by the DDA.

### **3.2 Background**

3.2.1 General Description of DDA: The Developmental Disabilities Administration (DDA) provides a coordinated service delivery system so that individuals with developmental disabilities receive appropriate services oriented toward the goal of integration into the community. These services are provided through a wide array of community-based services delivered primarily through a network of non-profit providers, as well as state residential centers (providing services to individuals with intellectual disability). DDA's mission is to partner with people with developmental disabilities to provide them leadership and resources to live fulfilling lives. Go here to learn more about DDA: <http://dda.dhmh.maryland.gov/SitePages/aboutdda.aspx>.

3.2.2 DDA services, including UR/AOS services, are administered through four regional offices:

- Central Maryland Regional Office (CMRO) Anne Arundel County, Baltimore City, Baltimore County, Harford County, Howard County
- Eastern Shore Regional Office (ESRO) Caroline County, Cecil County, Dorchester County, Kent County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, Worcester County
- Southern Maryland Regional Office (SMRO) Calvert County, Charles County, Montgomery County, Prince George's County, St. Mary's County
- Western Maryland Regional Office (WMRO) Allegany County, Carroll County, Frederick County, Garrett County, Washington County

3.2.3 The DDA provides various services to eligible individuals with developmental disabilities in Maryland. Services funded by the Fee Payment System (FPS) require that the individual have a level-of-need assessment, which is used, to determine an appropriate level of individual reimbursement. A third party reviewer is responsible for completing the level of need assessments for individuals who have been deemed eligible for services, for whom funding has been identified, and who are newly entering DDA FPS services. This allows the DDA to obtain an objective assessment in determining the individual's reimbursement level and also allows the individual the opportunity to obtain services from any provider with a predetermined reimbursement rate. Go here to see the regulatory basis for the FPS: [http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.22.17.\\*](http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.22.17.*)

The remainder of this Background section describes the circumstances and requirements related to UR/AOS delivery.

3.2.4 Nearly all DDA funded day and supported employment programs, as well as CSLA and residential supports are funded through the Medicaid waiver program. According to Medicaid law, individuals receiving at least one waiver covered service have the right to access the full range of waiver services needed to lead a safe and dignified life in the community based on an assessed need.

3.2.5 Desired outcomes identified by an individual are achieved through specific services(s) and action steps that are outlined in the IP to address a need. An individual's outcomes and needs can change, resulting in changes to the IP (i.e., increase, decrease, or addition of new services and resources), and therefore a Request for Service Change (RFSC) may become necessary. During fiscal year (FY) 2011, there were 2886 RFSCs

generated and 2509 of those were approved. In FY 2012, there were 5268 RFSCs generated and 4656 of those were approved. In FY 2013 to-date, there have been 2073 RFSCs generated and 1651 have been approved. An individual may require highly-utilized add-ons, and currently, there are 4687 DDA consumers receiving add-ons. This contract requires approximately 4,000 add-on reviews annually.

- 3.2.6 DDA requires approximately 500 performance audits for people who are receiving funding from DDA for services, including: Residential, Vocational, Day, CSLA, ISS, FSS, IFC, LISS, SE and SDFM services (see definitions for acronyms below table). The purpose of the performance audit is to verify that the hours of services and the actual service for which the DDA has contracted are being provided to the service recipients. See below for information on the number of consumers in each service by county. These figures are based on current and historical experience and are provided for informational purposes only. DHMH makes no guarantee of any minimums, maximums, or allocation by type of service, county, or region.

Number of Consumers in Each Service per County (Unduplicated)

COUNTY	CSLA	DAY	FSS	IFC	ISS	RES	SDFM	SE	ALL
Alleghany	65	196	13	1	51	118	6	22	472
Anne	110	617	21	3	140	451	8	320	1670
Arundel									
Baltimore	346	1398	71	54	272	1640	57	1112	4950
Baltimore	140	585	68	62	204	240	8	623	1930
City									
Calvert	53	51	8	2	25	33	7	80	259
Caroline	17	93	3	0	8	58	1	6	186
Carroll	88	247	19	26	50	123	4	60	617
Cecil	22	156	6	1	17	95	3	50	350
Charles	58	167	35	1	89	138	4	148	640
Dorchester	12	51	1	5	10	37	1	13	130
Frederick	49	266	8	4	184	167	14	68	760
Garrett	22	64	3	0	28	33	2	15	167
Harford	45	179	17	1	39	153	7	215	656
Howard	86	309	10	3	76	246	22	217	969
Kent	15	25	1	0	5	20	1	19	86
Montgomery	405	744	29	3	184	805	30	860	3060
Prince	191	963	32	19	162	649	15	601	2632
George's									
Queen	15	78	5	1	8	33	1	6	147
Anne's									
Somerset	16	84	0	1	2	59	0	22	184
St. Mary's	68	72	5	0	57	59	4	121	386
Talbot	10	88	3	0	16	56	1	3	177
Washington	115	396	63	2	66	306	4	52	1004
Wicomico	69	317	9	16	21	245	4	128	809
Worcester	34	80	6	3	11	20	0	17	171
TOTALS	2051	7226	436	208	1725	5784	204	4764	22413

CSLA – Community Supported Living Arrangement

DAY – Day service (learn daily skills)

FSS – Family Support Services

IFC – Individual Family Care

Individual Support Services

RES – Residential service program

SDFM – Self directed Fiscal Management

SE – Supported Employment

- 3.2.7 Performance audits consist of reviewing documents to justify that the service was rendered and that licensee (overnight, day or drop-in) support hours were utilized as projected in the Service Funding Plan (SFP) and Individual Plan (IP) based on the level/ratio of supervision and required services. The audits also consist of interviewing the person that received the service and, as appropriate, the person's family, resource coordinator or others to determine whether or not services were rendered as estimated. The review period for all auditable services (CSLA, ISS, FSS and IFC) is 12 months.

### **3.3 General Work Requirements**

- 3.3.1 General DDA information regarding licensed services, training, finances and policy are on DDA's web site. The Contractor shall review and comply with those elements that are related to the RFP requirements specified in this RFP. Go here to learn more about DDA licensed services: <http://dda.dhmd.maryland.gov/SitePages/services.aspx>; here to learn more about offered training: <http://dda.dhmd.maryland.gov/SitePages/Training.aspx>; and here to learn more about information, forms and resources for DDA providers: <http://dda.dhmd.maryland.gov/SitePages/providers.aspx>.
- 3.3.2 The Contractor shall meet the requirements of the Fee Payment System (FPS) as required in COMAR 10.22.17. Go here for more information: [http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.22.17.\\*](http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.22.17.*)

### **3.4 Specific Work Requirements**

#### **3.4.1 Authorization of Services (AOS):**

- a. The Contractor shall review all RFSC forms, and based on clinical review of information submitted, shall make a determination of whether services shall be authorized. This will be for any and all services provided through the waiver by all DDA programs. The Contractor will confirm that the RFSC is based on the individual's goals and needs and ensure that the services requested meet medical necessity. Section 3.2.5, above, shows data on historical volumes. Those numbers are indicative of future workloads but do not represent a guarantee or minimum/maximum volumes.
- b. The Contractor shall review high utilization add-on reviews annually as well as reviews selected by DDA as a random sample of people who are receiving DDA funded services quarterly. The number of reviews to be conducted is based on the need for authorization results to be reliable and representative of the level of service provided to people in service. The Contractor will also ensure that the services requested meet medical necessity, when appropriate.
  - 1) The Contractor shall annually review all high utilization add-ons (i.e. 1:1 staffing ratios, awake overnight (AON) staffing, behavioral support staffing, and appropriate clinical staffing such as nurses.
  - 2) The Contractor shall review quarterly a random sample of existing services per the Administration's request.
  - 3) The Contractor shall have the ability to review all existing add-ons per the Administration's request.
- c. The Contractor shall develop a standardized tool based on the DDA's RFSC form (Attachment Q), with input and approval from DDA, containing criteria to determine if the services requested in the RFSC are programmatically and/or clinically appropriate for the individual.
- d. The Contractor shall develop a process for first level appeals of decisions that they make for service changes through the RFSC process. The process should further identify the DDA appeal process indicated in the Request for Service Change Protocol dated 10-15-10.

#### **3.4.2 Utilization Review:**

- a. DDA pays licensees to provide support staff, support hours, and services as indicated in the person's Individual Plan. The Contractor shall make a determination regarding whether or not staff support hours were provided by licensees as agreed.
- b. Performance audits shall consist of an interview with the person receiving DDA funding for services and a document review. The Contractor shall review documents that include an agreement between the licensee and DDA to pay for individualized services, the Individual Plan, logs/case notes re: services and hours provided by staff to the person identified in the audit, staff time sheets and any other documentation required by DHMH. The person that received the service (and as appropriate, the person's family, resource coordinator or others) shall be interviewed by the utilization management Contractor to verify the provision of staff. A sample Audit Report Form and CSLA UR Review Audit Form can be found at Attachments N and O. The Contractor may use this form or submit any revisions for an improved form to the Contract Manager for review and approval. Reports include information regarding any fiscal deficiencies between the services awarded to the consumer and services provided.
- c. The Contractor shall participate in all scheduled trainings specified in the RFP. The trainings will include the organization and administration of the Administration and its regional offices, as well as all of the services, including Residential, Vocational, CSLA, ISS, FSS, IFC and LISS funded or conducted by the Administration.
- d. The Contractor shall implement quarterly on-the-job competency evaluations of staff performance, based on consumer satisfaction survey result, Regional Office feedback on assessments, audits, and monthly reports. Consumer satisfaction questions can be found at Attachments N and O and can be used to measure levels of consumer satisfaction achieved by each Contractor employee.
- e. The Contractor shall conduct 125 performance audits quarterly (500 people annually), selected by DDA as a random sample of people who are receiving DDA funded services. The number of audits to be conducted is based on the need for audit results to be reliable and representative of the level of service provided to consumers. The random sample is pulled from all four DDA regions. While conducting the audits, the Contractor shall:
  - 1) Utilize the following DDA audit tools: The Audit Report for Family/Individual Support Services Form, CSLA Utilization Review Audit Form and Audit Material Checklist and Preliminary Findings Healthcare Form, to conduct the audit. Samples of these forms are in Attachments N, O and P, respectively.
  - 2) Conduct Utilization Review services for people living in all counties in Maryland and in Baltimore City. The audits are to be conducted at the provider location, and the interviews with the Consumer can be conducted in person or by phone.
  - 3) Once the DDA has provided the Regional Offices with a list of consumers to audit, the people selected on a quarterly basis will receive a standard utilization review audit which must be completed within 90 days of notification by the Department and submitted to the DDA.
  - 4) Provide the DDA contract monitor with a completed, secure, electronic copy of the audit form which coincides with the service audited (CSLA, FISS or ISS). Samples of the forms in use are found at Attachments N, O and P. The Contractor shall submit copies of the documents it intends to use in final form modeled after Attachments N, O and P to the Contract Monitor by NTP + 15 calendar days for approval. The Contractor will make any changes required by the Contract Monitor.
- f. The Contractor shall complete within 30 days of the date of notification is received from the Department any additional audits beyond the pre-selected sample, requested by the DDA (on demand). Historically, on-demand audits generally occur on average, one every two months, at any point during the calendar

year. These on-demand audits are for situations DDA deems in need of immediate attention. For example, if a DDA regional office receives a report that a person has not been receiving services for a period of time, the DDA may require an on-demand audit. The number of on demand audits, historically one every two months, could be more or less depending on the number of DDA determines need immediate attention. This may require the Contractor to provide additional personnel in order to meet the time frame for completion of the audit.

- g. The Contractor shall submit to the Contract Manager a quality assurance process by NTP plus 15 calendar days that includes an inter-rater reliability process to demonstrate consistency between auditors and reviewers.

### **3.5 Personnel Requirements**

The Contractor shall provide a Project Director with 5 years of experience in public sector utilization review and authorization of services for people with disabilities. The Project Director will manage and be responsible for a staff of auditors and be the primary contact person for the Administration Contract Monitor. The Contractor's Project Director is considered a key person and subject to the substitution requirements specified in the RFP Section 1.37. The Contractor shall hire a team of reviewers who have the clinical competency to determine medical, clinical, and behavioral necessity of services being requested. All clinical staff are considered key personnel. The Contractor shall also provide audit personnel with a minimum of 3 years of experience in public sector utilization review of services for people with disabilities. The experience shall include conducting at least 500 performance audits per year as an entity with at least a portion of the experience no more than 3 years old. All audit personnel, including the Project Director, are designated as key personnel and subject to RFP substitution requirements.

### **3.6 Reports**

- 3.6.1 Every "Request for Service Change" will be considered by the Contractor and a final determination made in writing. After consideration of information submitted, allowable services, and funding source, DDA makes a determination which is documented in writing using the standardized template included as Attachment Q. Determinations include approval of the request, denial of the request, additional information is needed, or a combination of these determinations based on the number of requests submitted. All denial notification letters include appeal rights. For further information regarding RFSC, please follow this link and type RFSC in the search box at the top of the page. <http://dda.dhmf.maryland.gov/SitePages/providers.aspx>
  - a. Standard Requests are to be reviewed and determined by the Contractor within forty-five (45) business days or sooner.
  - b. Emergency Requests are to be immediately considered, within five (5) business days, by the Contractor and a decision is documented and communicated verbally with the resource coordinator or person making the request.
- 3.6.2 The Contractor shall provide the DDA with a monthly Excel spreadsheet report, no later than the 15th calendar day of the following month, for the previous month activities, to include a summary of activities and resulting data. The report shall include at least the following information:
  - a. Demographics about each RFSC form reviewed, including name of person to receive service, service change requested, determination made, date determination letter mailed;
  - b. Demographics about each first level appeal received, including name of individual, service change decision appealed, status of appeal;
  - c. Demographics about each person whose services were audited;

- d. Activities for the Month (summarize volume of audits & interviews)
- e. Summary of audit results submitted to Regional Offices and running total of audits for contracted year
- f. Consumer Satisfaction Monitoring (individual satisfaction on experiences with Utilization Review) on each audit conducted. A satisfaction questionnaire specified in Section 3.4.2.d, above, will be conducted on 20% of the quarterly audits and sent to the DDA and the Regional Office.
- g. Results of quarterly (this element of the monthly report will only appear quarterly) on-the-job evaluations of staff performance, demonstrating completion of routine/quarterly audits, within the 90 days of notification timeframe and on demand audits within the 30 days of notification timeframe as well as a qualitative measurement of performance. The Contractor shall develop a form for this report and submit the form to the Contract Manager for review and approval by NTP + 15 days.
- h. Issues and Challenges (briefly discuss these & potential impact on review process & proposed solutions) The Contractor shall be responsible for supplying service providers with a plan to remediate any discrepancy noted in the audit.
- i. Plans for the next month following the report month.

3.6.3 All reports shall be submitted in final form by the date and in the format specified in this Section 3.6.

- a. The Contractor shall acquire access rights to DDA's MIS Provider and Consumer Information System (PCIS2) in order to input all audit results.
- b. The Contractor will also submit the database procedures such as who will enter the data and how frequently, and the reporting format to be utilized, no later than thirty calendar days before the start-work date, for approval prior to use to the Contract Monitor. The Contractor shall utilize DDA's MIS PCIS2 to present and submit the final reports.

3.6.4 Provide an annual report, due by the 31st of the month after the end of the State fiscal year. (July 1st to June 30th)

- a. This report shall provide:
  - A detailed summary of all services provided during the year;
  - An analysis of the results of the services; and
  - Recommendations the Contractor has for improving the efficiency and quality of services being delivered.
- b. The Contractor shall maintain all records related to this contract for a minimum of 6 years after the conclusion of this contract. The Contractor will return records to the Department or confidentially dispose of them at the direction of the Contract Manager.

## **3.7 Security Requirements**

3.7.1 Employee Identification

- (a) Each person who is an employee or agent of the Contractor or subcontractor shall display his or her company ID badge at all times while on State premises. Upon request of State personnel, each such employee or agent shall provide additional photo identification.

- (b) At all times at any facility, the Contractor's personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badging, and wearing the badge in a visual location at all times.

### 3.7.2 Information Technology

- (a) Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: [www.doit.maryland.gov](http://www.doit.maryland.gov) – keyword: Security Policy.
- (b) The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

### 3.7.3 Criminal Background Check

COMAR 12.15.03 and Health-General Article, §19-1902 and the following set forth the requirements of conducting a criminal background check. The Contractor must comply with these directives. The Contractor shall, for each potential employee or subcontractor (before she/he works with individuals):

- a. Apply for a State criminal history records check as set forth in COMAR 12.15.03, **or**
- b. Request a private agency perform the background check as set forth in COMAR 12.15.03

A "criminal history records check" means a check of criminal history record information, as defined in § 10-201 of the Criminal Procedure Article, by the Department of Public Safety and Correctional Services.

A "background check" means a check of court and other records by a private agency.

The Contractor shall pay for the cost of the State criminal history records check or a private agency background check for each potential employee. For Contractors who use a private agency to conduct a background check, the private agency shall conduct a background check in **each state** in which the Contractor knows or has reason to know the eligible employee worked or resided during the past 7 years.

Please note that:

- a. An internet search of a potential employee's background information, or
- b. A reference from the potential employee's most recent employer are **not** substitutes for a State criminal history records check or a private agency background check.

## 3.8 MBE Reports

If this solicitation includes a MBE Goal (see Section 1.24), the Contractor and its MBE subcontractors shall provide the following MBE Monthly Reports based upon the commitment to the goal:

- (a) **Attachment D4**, the MBE Participation Prime Contractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.
- (b) **Attachment D5**, the MBE Participation Subcontractor Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.

## 3.9 VSBE Reports

If this solicitation includes a VSBE Goal (see Section 1.39), the Contractor and its VSBE subcontractors shall provide the following VSBE Monthly Reports based upon the commitment to the goal:

- (a) **Attachment L3**, the VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.
- (b) **Attachment L4**, the VSBE Participation Subcontractor Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.

### **3.10 Invoicing**

3.10.1 All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor no later than the end of the month following the month in which service was provided. Invoices shall include the following information:

- Contractor name;
- Remittance address;
- Federal taxpayer identification (or if sole proprietorship, the individual's social security number);
- Invoice period;
- Invoice date;
- Invoice number;
- State assigned Contract number;
- State assigned (Blanket) Purchase Order number(s);
- Quantities of each service delivered as described in the Attachment F-Financial Proposal form; and
- Amount due.

Invoices submitted without the required information will not be processed for payment until the Contractor provides the required information.

3.10.2 The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or in the event that the Contractor otherwise materially breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article, §§15-215 through 15-223 and with COMAR 21.10.02.

3.10.3 Contractor shall have a process for resolving billing errors.

3.10.4 Funds for any Contract(s) resulting from this solicitation are dependent upon appropriations from the Maryland General Assembly.

3.10.5 The amount of payment will be the unit price for the described service in the price sheet times the number of units (number of occurrences) for the previous month.

### **3.11 Insurance Requirements**

3.11.1 The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.

3.11.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$1,000,000 per occurrence.



- 3.11.3 The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered but in no case less than those required by the State of Maryland.
- 3.11.4 The Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence.
- 3.11.5 Within five (5) Business Days of execution of a Contract with the State, Contractor shall provide the Contract Monitor with current certificates of insurance, and shall update such certificates from time to time, but no less than annually in multi-year contracts, as directed by the Contract Monitor. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:
- a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
  - b. Commercial General Liability as required in Section 3.11.1.
  - c. Errors and Omissions/Professional Liability as required in Section 3.11.2.
  - d. Automobile and/or Commercial Truck Insurance as required in Section 3.11.3.
  - e. Employee Theft Insurance as required in Section 3.11.4.
- 3.11.6 The State shall be named as an additional named insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. Certificates of insurance evidencing coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than sixty (60) days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.
- 3.11.7 The Contractor shall require that any subcontractors providing services under this Contract obtain and maintain similar levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

## **3.12 Problem Escalation Procedure**

- 3.12.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel, as directed should the Contract Monitor not be available.
- 3.12.2 The Contractor must provide the PEP no later than ten (10) Business Days after notice of Contract award or after the date of the Notice to Proceed, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each contract year (and within ten (10) Business Days after any change in circumstance which changes the PEP). The PEP shall detail how

problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

- The process for establishing the existence of a problem;
- The maximum duration that a problem may remain unresolved at each level in the Contractor's organization before automatically escalating the problem to a higher level for resolution;
- Circumstances in which the escalation will occur in less than the normal timeframe;
- The nature of feedback on resolution progress, including the frequency of feedback, to be provided to the State;
- Identification of, and contact information for, progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
- A process for updating and notifying the Contract Monitor of any changes to the PEP.

Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State which may be allowed by the Contract or applicable law.

### **3.13 Interpretation Services**

- 3.13.1 The Contractor shall provide foreign language interpretation (both simultaneous oral and/or written, as requested) and sign language (simultaneous) interpretation, for those eligible persons requiring such services (Consumers). Should the notification period or the language type preclude providing such services, the Contractor shall notify the Contract Monitor within two business days, but in no case later than the time when interpretation services are required.

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## **SECTION 4 – PROPOSAL FORMAT**

### **4.1 Two Part Submission**

Offerors shall submit proposals in separate volumes:

- Volume I – TECHNICAL PROPOSAL
- Volume II – FINANCIAL PROPOSAL

### **4.2 Proposals**

4.2.1 Volume I – Technical Proposal and Volume II – Financial Proposal shall be sealed separately from one another. Each Volume shall contain an unbound original, so identified, and four (4) copies. The two (2) sealed Volumes shall be submitted together under one (1) label bearing:

- The RFP title and number,
- Name and address of the Offeror,
- The volume number (I or II), and
- Closing date and time for receipt of proposals

To the Procurement Officer (see Section 1.5 “Procurement Officer”) prior to the date and time for receipt of proposals (see Section 1.10 “Proposals Due (Closing) - Date and Time”).

4.2.2 An electronic version (CD) of the Technical Proposal in Microsoft Word format must be enclosed with the original Technical Proposal. An electronic version (CD) of the Financial Proposal in Microsoft Word format must be enclosed with the original Financial Proposal. CDs must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. CDs must be packaged with the original copy of the appropriate proposal (technical or financial).

4.2.3 A second electronic version of Volume I and Volume II in searchable pdf format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see Section 1.19 “Public Information Act Notice”).

4.2.4 All pages of both proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).

4.2.5 Proposals and modifications will be shown only to State employees, members of the Evaluation Committee, or other persons deemed by the Department to have a legitimate interest in them.

### **4.3 Delivery**

4.3.1 Offerors may either mail or hand-deliver proposals. For U.S. Postal Service deliveries, any proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. An Offeror using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.

- 4.3.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
- 4.3.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The register of proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

#### **4.4 Volume I – Technical Proposal**

**Note: No pricing information is to be included in the Technical Proposal (Volume I). Pricing will only be included in the Financial Proposal (Volume II).**

##### **4.4.1 Format of Technical Proposal**

Inside a sealed package described in Section 4.2 “Proposals,” the unbound original, 4 copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.3 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 4.4.3.1 “Title and Table of Contents,” Section 4.4.3.2 “Claim of Confidentiality,” Section 4.4.3.3 “Transmittal Letter,” Section 4.4.3.4 “Executive Summary,” etc. In addition to the instructions below, the Offeror’s Technical Proposal should be organized and numbered in the same manner as this RFP. This proposal organization will allow State officials and the Evaluation Committee to “map” Offeror responses directly to RFP requirements by section number and will aid in the evaluation process.

If the State is seeking Offeror agreement to a requirement(s), the Offeror shall state agreement or disagreement. The Offeror shall address each major section of the RFP in its Technical Proposal and describe how its proposed services will meet or exceed the requirement(s). Any paragraph in the Technical Proposal that responds to a work requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or condition may result in having the proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.

##### **4.4.2 Additional Required Technical Submissions**

4.4.2.1 The following documents shall be included in the Technical Proposal; each in its own section that follows the material submitted in Section 4.4.3.

- a. Minimum Qualifications Documentation (See Section 2 “Offeror Minimum Qualifications.”)
- b. Completed Bid/Proposal Affidavit (**Attachment B**)
- c. Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**). This attachment must be provided in a separately sealed envelope.
- d. Completed Maryland Living Wage Requirements Affidavit (**Attachment G-1**)
- e. Completed Federal Funds Attachment (**Attachment H**)
- f. Signed Conflict of Interest Affidavit and Disclosure (**Attachment I**)
- g. Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment L-1**). This attachment must be provided in a separately sealed envelope.
- h. Completed Location of the Performance of Services Disclosure (**Attachment M**)
- i. Completed Certification Regarding Investments in Iran (**Attachment N**)

4.4.2.2 Please note that:

- a. signed Contract (**Attachment A**),
- b. completed Contract Affidavit (**Attachment C**),

- c. signed Outreach Efforts Compliance Statement (**Attachment D2**) and Subcontractor Project Participation Certification (**Attachment D4**),
- d. signed Business Associate Agreement (**Attachment J**),
- e. signed Non-Disclosure Agreement (Award) (**Attachment K**), and
- f. signed VSBE Subcontractor Participation Statement (**Attachment L2**)
- g. Certificate of Insurance (see RFP Section 3.11).

are not required to be submitted with the proposal. These documents will be required to be completed and submitted by the successful Offeror within five (5) Business Days from notification by the Procurement Officer that the Offeror has been determined to be the apparent awardee.

4.4.3 The Technical Proposal shall include the following documents and information in the order specified as follows:

#### 4.4.3.1 Title Page and Table of Contents

The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.

#### 4.4.3.2 Claim of Confidentiality

Information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, also in the Offeror's Financial Proposal. An explanation for each claim of confidentiality shall be included (see Section 1.19 "Public Information Act Notice").

#### 4.4.3.3 Transmittal Letter

A transmittal letter shall accompany the Technical Proposal. The purpose of this letter is to transmit the Technical Proposal and acknowledge the receipt of any addenda. The transmittal letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. The Offeror's eMM and MBE certification number (if applicable) shall be included in this Letter.

#### 4.4.3.4 Executive Summary

The Offeror shall condense and highlight the contents of the technical proposal in a separate section titled "Executive Summary."

The Summary should identify the Service Category(ies) and Region(s) the Offeror is proposing to provide (as applicable). The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

If the Offeror has taken no exceptions to the requirements of this RFP, the Executive Summary shall so state.

#### 4.4.3.5 Offeror Technical Response to RFP Requirements and Proposed Work Plan

- a. The Offeror shall address each section in its Technical Proposal and describe how its proposed services will meet or exceed the requirement(s). If the State is seeking Offeror agreement to a requirement(s), the Offeror shall state agreement or disagreement. Any paragraph in the Technical Proposal that responds to a work requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or

condition may result in having the proposal deemed unacceptable or the Offeror classified as not reasonably susceptible of being selected for award.

- b. The Offeror shall give a definitive description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. It shall include the specific methodology and techniques to be used by the Offeror in providing the required services as outlined in RFP Section 3, Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.
- c. The Offeror shall identify the location(s) in which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
- d. The Offeror must provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Department's Contract Monitor should problems arise under the Contract and explain how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures must be submitted as indicated in RFP Section 3.12.
- e. Submit a defined quality assurance process draft linked to RFP Section 3.4.2.g that includes an inter-rater reliability process to demonstrate consistency between auditors.
- f. Submit a draft of the proposed quarterly on-the-job evaluations of staff performance forms required by RFP Section 3.4.2.d. The forms shall demonstrate completion of routine/quarterly audits, within the 90 days of notification timeframe and on demand audits within the 30 days of notification timeframe as well as a qualitative measurement of performance.
- g. The Offeror will submit draft database procedures such as who will enter the data and how frequently, and the reporting format to be utilized. The successful Offeror is required to submit a final plan per RFP Section 3.6.3.b.
- h. Submit drafts of the audit forms reflected in the RFP Section 3.4.2.e.(4) which coincides with the service audited (CSLA, FISS or ISS). The samples of the forms in use are found at Attachments N, O and P.
- i. Submit a draft of the standardized tool based on the DDA's Request For Service Change form (Attachment Q) as required by RFP Section 3.4.1c.

#### 4.4.3.6 Experience and Qualifications of Proposed Staff

The Offeror shall identify the number and types of staff proposed to be utilized under the Contract.

The Offeror shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, as detailed in the Work Plan. The Offeror shall include individual resumes for the key personnel who are to be assigned to the project if the Offeror is awarded the contract. Each resume should include the amount of experience the individual has had relative to the scope of work set forth in this solicitation. Letters of intended commitment to work on the project, including from non-MBE subcontractors, should be included in this section.

The Offeror is required to provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks.

Offerors using job titles other than those commonly used by industry standards must provide a crosswalk document.

#### 4.4.3.7 Corporate Qualifications and Capabilities

The Offeror shall include information on past corporate experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall include the following information:

- a. An overview of the Offeror's experience and capabilities providing similar services. This description shall include:
  - i. The number of years the Offeror has provided the similar services; and
  - ii. The number of clients/customers and geographic locations that the Offeror currently serves.
- b. The names and titles of key management personnel who will be directly involved with supervising the services to be performed under this Contract.
- c. At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the services specified in this RFP. References used to meet the Minimum Qualifications may be used to meet this request. Each reference shall be from a client for whom the Offeror provided services within the past five (5) years and shall include the following information:
  - i. Name of client organization;
  - ii. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
  - iii. Value, type, duration, and services provided.

**DHMH reserves the right to request additional references or use references not provided by an Offeror.**

- d. An Offeror must include in its Proposal a commonly accepted method to prove its fiscal integrity. Some acceptable methods include but are not limited to one or more of the following:
  - i. Dunn and Bradstreet Rating;
  - ii. Standard and Poor's Rating;
  - iii. Recently audited (or best available) financial statements;
  - iv. Lines of credit;
  - v. Evidence of a successful financial track record; and
  - vi. Evidence of adequate working capital.

The Offeror shall also describe how it is configured managerially, financially, and individually so as to afford the assurance that it can execute a contract successfully.

- e. The Offeror's process for resolving billing errors.
- f. Corporate organizational chart that identifies the complete structure of the company including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.
- g. Complete list of all subcontractors that will work on the Contract if the Offeror receives an award, other than those used to meet an MBE subcontracting goal, which are identified separately. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project.

- h. Legal Action Summary. This summary shall include:
  - i. A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
  - ii. A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
  - iii. A description of any judgments against the Offeror within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court; and
  - iv. In instances where litigation is on-going and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

- i. Past State Experience

The Offeror shall provide a list of all contracts with any entity of the State of Maryland for which it is currently performing services or for which services have been completed within the last five (5) years. For each identified contract the Offeror is to provide:

- i. The State contracting entity;
- ii. A brief description of the services/goods provided;
- iii. The dollar value of the contract;
- iv. The term of the contract;
- v. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- vi. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

#### 4.4.3.8 Economic Benefit Factors

Offerors shall submit with their proposals a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of their performance of this contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered.

Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than proposals that do not identify specific benefits as contractual commitments, all other factors being equal.

Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the contract term.

As applicable, for the full duration of the contract, including any renewal period, or until the commitment is satisfied, the contractor shall provide to the procurement officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

Please note that in responding to this section, the following do not generally constitute economic benefits to be derived from this contract:

- 1. generic statements that the State will benefit from the Offeror's superior performance under the contract;



2. descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under this contract; or
3. tax revenues from Maryland based employees or locations, other than those that will be performing, or used to perform, work under this contract.

Discussion of Maryland based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded this contract.

Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

- The contract dollars to be recycled into Maryland’s economy in support of the contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Do not include actual fees or rates paid to subcontractors or information from your financial proposal;
- The number and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the contractor has committed, including contractual commitments at both prime and, if applicable, subcontract levels. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;
- Tax revenues to be generated for Maryland and its political subdivisions as a result of the contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the contract;
- Subcontract dollars committed to Maryland small businesses and MBEs; and
- Other benefits to the Maryland economy which the Offeror promises will result from awarding the contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the contract award. Offerors may commit to benefits that are not directly attributable to the contract, but for which the contract award may serve as a catalyst or impetus.

#### 4.4.3.9 Certificate of Insurance

The Offeror shall provide a copy of the Offeror’s current certificate(s) of insurance, including any types of insurance set forth in Section 3.11 “Insurance Requirement.” The recommended awardee must provide a certificate of insurance, including the prescribed limits for all types of insurance included in Section 3.11, and naming the State as an additional insured if required, within five (5) Business Days from notification by the Procurement Officer that the Offeror has been determined to be the recommended awardee.

## **4.5 Volume II - Financial Proposal**

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 4.2 “Proposals,” the Offeror shall submit an original unbound copy, 4 copies, and an electronic version in MS Word of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment F**. The Offeror shall complete the price sheets only as provided in the Financial Proposal Form and Instructions.

## **SECTION 5 – EVALUATION COMMITTEE, EVALUATION CRITERIA, AND SELECTION PROCEDURE**

### **5.1 Evaluation Committee**

Evaluation of proposals will be conducted by a committee established for that purpose and based on the criteria set forth below. The committee may obtain assistance with its evaluation from any appropriate source.

### **5.2 Technical Proposal Evaluation Criteria**

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any subcriteria within each criterion have equal weight.

#### **5.2.1 Offeror’s Technical Response to RFP Requirements and Work Plan (See RFP § 4.4.3.5)**

The State prefers an Offeror’s response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be done. Responses to work requirements such as “concur” or “will comply” will receive a lower ranking than those Offerors who demonstrate they understand a work requirement and have a plan to meet or exceed it.

#### **5.2.2 Experience and Qualifications of Proposed Staff (See RFP § 4.4.3.6)**

#### **5.2.3 Corporate Qualifications and Capabilities (See RFP § 4.4.3.7)**

#### **5.2.4 Economic Benefit to State of Maryland (See RFP § 4.4.3.8)**

### **5.3 Financial Criteria**

All qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the total price proposed within the stated guidelines set forth in this RFP and as submitted on **Attachment F—Financial Proposal Form**.

### **5.4 Reciprocal Preference**

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

- The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site (that will primarily provide the services required under this RFP) is in another state.
- The other state gives a preference to its resident businesses through law, policy, or practice; and
- The preference does not conflict with a Federal law or grant affecting the procurement Contract.

The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

### **5.5 Selection Procedures**

### 5.5.1 In General

The Contract will be awarded in accordance with the competitive sealed proposals method found at COMAR 21.05.03. The competitive sealed proposals method allows for the conduct of discussions and the revision of proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror's technical proposal to be not reasonably susceptible of being selected for award, that Offeror's financial proposal will be returned if the financial proposal is unopened at the time of the determination.

### 5.5.2 Selection Process Sequence

- 5.5.2.1 A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) is included and is properly completed, if there is an MBE goal. In addition, a determination is made that the Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment L-1**) is included and is to be properly completed, if there is a VSBE goal.
- 5.5.2.2 Technical proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as discussions are scheduled.
- 5.5.2.3 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Proposals are given a final review and ranked.
- 5.5.2.4 The financial proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable proposal) will be evaluated separately from the technical evaluation. After a review of the financial proposals of Qualified Offerors, the evaluation committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire proposal.
- 5.5.2.5 When in the best interest of the State, the Procurement Officer may permit Qualified Offerors that have submitted acceptable proposals to revise their initial proposals and submit, in writing, best and final offers (BAFOs). The State may make an award without issuing a request for a BAFO.

### 5.5.3 Award Determination

- 5.5.3.1 Upon completion of all discussions, negotiations, and reference checks, the Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the proposal determined to be the most advantageous to the State. In making this determination, technical factors will receive equal weight with price factors.
- 5.5.3.2 At the same time DDA is seeking a contractor for Utilization Review/Authorization of Services (UR/AOS), it is also seeking contractors for Behavior Support Services (BSS), Forensic Services (FS), and Level of Need Assessments (LNA). Due to conflict of interest considerations, the following rule set applies to awards in all of these service areas:
  - a. Utilization Reviews/Authorization of Services (UR/AOS): An Offeror may win an award for UR/AOS and FS but then will not be eligible an award for LNA or any or all parts of BSS.

- b. Behavior Support Services (BSS): An Offeror may win an award for any or all BSS regions but then will not be eligible for an award for FS, UR/AOS or LNA.
- c. Forensic Services (FS): An Offeror may win an award for both FS and UR/AOS but then will not be eligible for an award for LNA or any or all parts of BSS.
- d. Level of Need Assessments (LNA): An Offeror may win an award for LNA and FS but then will not be eligible for an award for UR/AOS or any or all parts of BSS.

**The remainder of this page is intentionally left blank.**

## **SECTION 6 - ATTACHMENTS**

### **ATTACHMENT A – Contract**

This is the sample Contract used by the Department. It is provided with the solicitation for informational purposes and is not required to be submitted at Proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the recommended awardee for signature. The recommended awardee must return to the Procurement Officer three (3) executed copies of the Contract within five (5) Business Days after receipt. Upon Contract award, a fully-executed copy will be sent to the Contractor.

### **ATTACHMENT B – Bid/Proposal Affidavit**

This document must be completed and submitted with the Offeror's Technical Proposal.

### **ATTACHMENT C – Contract Affidavit**

This Attachment is to be completed and submitted by the recommended awardee to the Procurement Officer within five (5) Business Days of receiving notification of recommendation for award.

### **ATTACHMENT D – Minority Business Enterprise Forms**

If required (see Section 1.24), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-6. Attachment D-1 must be properly completed and submitted with the Offeror's Technical Proposal or the Proposal will be deemed not reasonably susceptible of being selected for award and rejected. Attachments D-2 and D-3 are required to be submitted within ten (10) Business Days of receiving notification of recommendation for award. Attachment D-6 is to be submitted with the Technical Proposal if the Offeror requests a waiver of the MBE goal.

### **ATTACHMENT E – Pre-Proposal Conference Response Form**

It is requested that this form be completed and submitted as described in Section 1.7 by those potential Offerors that plan on attending the Pre-Proposal Conference.

### **ATTACHMENT F – Financial Proposal Instructions and Financial Proposal Form**

The Financial Proposal form must be completed and submitted as the Financial Proposal.

### **ATTACHMENT G – Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement**

Attachment G-1 Living Wage Affidavit must be completed and submitted with the Technical Proposal.

### **ATTACHMENT H – Federal Funds Attachment**

Certifications and documents must be completed and submitted with the Technical Proposal.

### **ATTACHMENT I – Conflict of Interest Affidavit and Disclosure**

This document must be completed and submitted with the Technical Proposal.

### **ATTACHMENT J – HIPAA Business Associate Agreement**

If required (see Section 1.33), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

### **ATTACHMENT K – Non-Disclosure Agreement (Award)**

If required (see Section 1.38), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

### **ATTACHMENT L – Veteran-Owned Small Business Enterprise Forms**

If required (see Section 1.39), these Attachments include the VSBE Attachments M-1 through M-4. Attachment M-1 must be completed and submitted with the Technical Proposal. Attachment M-2 is required to be submitted within ten (10) Business Days of receiving notification of recommendation for award.

**ATTACHMENT M – Location of the Performance of Services Disclosure**

This Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT N – Investment in Iran Activities Certification**

This Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT O – Audit Report for Family/Individual Support Services Form**

This Attachment is provided with the solicitation for informational purposes.

**ATTACHMENT P – CSLA Utilization Review Audit Form**

This Attachment is provided with the solicitation for informational purposes.

**ATTACHMENT Q – Audit Material Checklist and Preliminary Findings Healthcare Form**

This Attachment is provided with the solicitation for informational purposes.

**ATTACHMENT R – Request For Service Change (RFSC) Form**

This Attachment is provided with the solicitation for informational purposes.

## ATTACHMENT A – CONTRACT

### Developmental Disabilities Administration (DDA) Utilization Review and Authorization of Services (UR/AOS)

THIS CONTRACT (the “Contract”) is made this \_\_\_\_ day of \_\_\_\_, \_\_\_\_ by and between \_\_\_\_ (the “Contractor”) and the STATE OF MARYLAND, acting through the DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OFFICE OF PROCUREMENT AND SUPPORT SERVICES (the “Department”).

In consideration of the promises and the covenants herein contained, the parties agree as follows:

#### 1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract Monitor” means the individual identified in the RFP as the Contract Monitor.
- 1.3 “Contractor” means \_\_\_\_ whose principal business address is \_\_\_\_ and whose principal office in Maryland is \_\_\_\_.
- 1.4 “Department” means the Maryland Department of Health and Mental Hygiene and any of its Agencies, Offices, Administrations, Facilities or Commissions.
- 1.5 “Financial Proposal” means the Contractor’s Financial Proposal dated \_\_\_\_.
- 1.6 “Procurement Officer” means the individual identified in the RFP as the Procurement Officer.
- 1.7 “RFP” means the Request for Proposals titled Developmental Disabilities Administration (DDA) Utilization Review and Authorization of Services (UR/AOS), Solicitation # DHMH OPASS 14-10960 and any addenda thereto issued in writing by the State.
- 1.8 “State” means the State of Maryland.
- 1.9 “Technical Proposal” means the Contractor’s Technical Proposal, dated \_\_\_\_.

#### 2. Scope of Contract

- 2.1 The Contractor shall provide deliverables, programs, goods, and services specific to the Contract awarded in accordance with Exhibits A-D listed in this section and incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – Contractor’s Contract Affidavit dated \_\_\_\_.

Exhibit C – Technical Proposal

Exhibit D – Financial Proposal

- 2.2 The Procurement Officer may, at any time, by written change order, make changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not

changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section may be the basis for a claim under the Disputes clause. The Contractor may not delay or refuse performance under a change order for any reason, but will proceed immediately and diligently with performance of the Contract in accordance with the change.

- 2.3 While the Procurement Officer may, at any time, by written change order, make unilateral changes in the work within the general scope of the Contract as provided in Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

### **3. Period of Performance.**

- 3.1 The Contract resulting from this RFP shall be for a period of approximately 3 years beginning on or about July 1, 2013 and ending on June 30, 2016. The term of this Contract begins on the date the Contract is signed by the Department following approval of the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract upon receipt of official notification of award and a written Notice to Proceed issued by the Contract Monitor.
- 3.2 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

### **4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of the RFP, especially § 3.2, and the Contractor's Financial Proposal. Unless properly modified (see Section 2 above), payment to the Contractor pursuant to this Contract shall not exceed \$\_\_\_\_\_.
- 4.2 Payments to the Contractor shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification Number which is \_\_\_\_\_. Charges for late payment of invoices other than as prescribed by Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 1, as from time-to-time amended, are prohibited. Invoices should be submitted to the Contract Monitor. Electronic funds transfer will be used by the State to pay Contractor under this Contract and any other State payments due the Contractor unless the State Comptroller's Office grants Contractor an exemption. The final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.
- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer. The Department may adjust payment to the Contractor to cover damages.
- 4.4 The Contractor shall not be responsible for damages to the extent that the damages are directly the result of acts or omissions by the State's employees. Each party shall bear responsibility for the damages directly caused by their acts or omissions.
- 4.5 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.



4.6 Contractor's eMarylandMarketplace vendor ID number is \_\_\_\_\_.

## **5. Rights to Records**

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## **6. Exclusive Use**

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

## **7. Patents, Copyrights, and Intellectual Property**

- 7.1 If the Contractor furnishes any design, device, material, process, or other item (the "Product") that is covered by a patent, trademark, service mark, or copyright, or which is proprietary to or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any Product infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a Product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs and attorneys' fees that a Court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.
- 7.3 If any Product becomes, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: (a) procure for the State the right to continue using the Product; (b) replace the Product with a non-infringing Product substantially complying with the item's specifications; or (c) modify the Product so that it becomes non-infringing and performs in a substantially similar manner to the original item.

## **8. Confidentiality**

8.1 Subject to the Maryland Public Information Act and any other applicable laws including without limitation HIPAA, the HI-TECH ACT, and the Maryland Medical Records Act, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant Confidential Information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

8.2 This Section 8 shall survive expiration or termination of this Contract.

## **9. Loss of Data**

In the event of loss of any State data or records held or maintained by the Contractor in the performance of services, where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data, in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

## **10. Indemnification**

10.1 The Contractor shall indemnify the State and the State's employees against liability for any suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

10.1.1 This shall not be construed to mean that the Contractor shall indemnify the State or the State's employees against liability for any suits, actions, or claims of any character that are directly the result of acts or omissions in the performance of the State or of the State's employees. Each party shall bear sole responsibility for any liability for any suits, actions, or claims of any character to the extent that such are directly caused by their acts or omissions.

10.2 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.

10.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.

10.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.

10.5 This Section 10 shall survive termination of this Contract.

## **11. Non-Hiring of Employees**

No official or employee of the State of Maryland, as defined under Md. Code Ann., State Government Article, § 15-102, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

## **12. Disputes**

This Contract shall be subject to the provisions of the Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2 and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

## **13. Maryland Law**

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Md. Code Ann., Commercial Law Article, Title 22, Maryland Uniform Computer Information Transactions Act, does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract.
- 13.3 Any and all references to the Maryland Code Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

## **14. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

## **15. Contingent Fee Prohibition**

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of this Contract.

## **16. Non-availability of Funding**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has

knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

#### **17. Termination for Cause**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

#### **18. Termination for Convenience**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

#### **19. Delays and Extensions of Time**

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

#### **20. Suspension of Work**

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

#### **21. Pre-Existing Regulations**

In accordance with the provisions of Md. Code Ann., State Finance and Procurement Article, § 11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

#### **22. Financial Disclosure**

The Contractor shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, § 13-221, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year which the business is to receive in the aggregate, \$100,000 or more, shall within

thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

### **23. Political Contribution Disclosure**

The Contractor shall comply with Md. Code Ann., Election Law Article, §§ 14-101 through 14-108, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (a) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (b) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31.

### **24. Documents Retention and Inspection Clause**

The Contractor and subcontractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. This Section 24 shall survive expiration or termination of the Contract.

If the Contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the Contractor agrees, in addition to the requirements above:

- 24.1 That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly-authorized representatives, shall be granted access to the Contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four (4) years after the services are furnished under this contract; and
- 24.2 That similar access will be allowed to the books, documents and records of any organization related to the Contractor or controlled by the Contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve (12) month period to be reimbursed through funds provided by this contract.

### **25. Compliance with Laws**

The Contractor hereby represents and warrants that:

- 25.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- 25.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 25.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,

25.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

## **26. Cost and Price Certification**

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid or offer.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its bid or offer, was inaccurate, incomplete, or not current.

## **27. Subcontracting; Assignment**

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Department's Contract Monitor, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Department's Contract Monitor. Any subcontracts shall include such language as may be required in various clauses contained within this contract, exhibits, and attachments. The contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

## **28. Liability**

28.1 For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor shall be liable as follows:

- a. For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;
- b. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- c. For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract, regardless of the form. Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

## **29. Parent Company Guarantee (If Applicable)**

[Corporate name of Parent Company] hereby guarantees absolutely the full, prompt and complete performance by [Contractor name] of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations and liabilities. [Corporate name of Parent Company] may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. [Corporate name of Parent Company] further agrees that if the State brings any claim, action, suit or proceeding against [Contractor], [Corporate name of Parent Company] may be named as a party, in its capacity as Absolute Guarantor.

## **30. Commercial Nondiscrimination**

30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, Contractor may not discriminate on the basis of

race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

- 30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by DBM, in all subcontracts.
- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth at Md. Code Ann., State Finance and Procurement Article, Title 19, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

### **31. Prompt Pay Requirements**

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the contractor until payment to the subcontractor is verified;
  - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
  - c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
  - d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - e. Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation:
- a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
  - b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
- a. Affect the rights of the contracting parties under any other provision of law;

- b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
- c. Result in liability against or prejudice the rights of the Department.

31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.

31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:

- a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
- b. This verification may include, as appropriate:
  - i. Inspecting any relevant records of the Contractor;
  - ii. Inspecting the jobsite; and
  - iii. Interviewing subcontractors and workers.
  - iv. Verification shall include a review of:
    - (a) The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
    - (b) The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
- c. If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- d. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, the Department may then:
  - i. Terminate the contract;
  - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
  - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
- e. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

## **32. Contract Monitor**

32.1 Contract Monitor. The work to be accomplished under this Contract shall be performed under the direction of the Contract Monitor. All matters relating to the interpretation of this Contract shall be referred to the Contract Monitor for determination.

## **33. Notices**

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State: Sharon R. Gambrill, CPPB  
 Procurement Officer  
 Maryland Department of Health and Mental Hygiene  
 Office of Procurement and Support Services



If to the Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**34. Federal Department of Health and Human Services (DHHS) Exclusion Requirements**

The Contractor agrees that it will comply with federal provisions (pursuant to §§ 1128 and 1156 of the Social Security Act and 42 C.F.R. 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained by DHHS. By executing this contract, the Contractor affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to exclusion. The Contractor agrees, further, during the term of this contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this contract, and to notify the DHMH Office of Systems, Operations and Pharmacy immediately of any identification of the contractor or an individual employee as excluded, and of any DHHS action or proposed action to exclude the contractor or any contractor employee.

**35. Compliance with HIPAA and State Confidentiality Law**

35.1 The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq. and implementing regulations including 45 C.F.R. Parts 160 and 164. The contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
- (b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract; and
- (c) Otherwise providing good information management practices regarding all health information and medical records.

35.2 If in connection with the procurement or at any time during the term of the contract, the Department determines that functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the Contractor acknowledges its obligation to execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501.

35.3 Protected Health Information as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is: individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

**36. Limited English Proficiency**

The contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and DHMH Policy 02.06.07.

**IN WITNESS THEREOF**, the parties have executed this Contract as of the date hereinabove set forth.

CONTRACTOR

STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND  
MENTAL HYGIENE

\_\_\_\_\_  
By:

\_\_\_\_\_  
By: Joshua M. Sharfstein, M.D., Secretary

\_\_\_\_\_  
Date

Or designee:

\_\_\_\_\_

\_\_\_\_\_  
Date

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_  
(Date) (BPW Item #)

## **ATTACHMENT B – BID/PROPOSAL AFFIDAVIT**

### **A. AUTHORITY**

#### **I HEREBY AFFIRM THAT:**

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

### **B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION**

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

#### **B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.**

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

#### **B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.**

The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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#### E. AFFIRMATION REGARDING DEBARMENT

##### I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

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F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

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G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

**I FURTHER AFFIRM THAT:**

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

**K. ACKNOWLEDGEMENT**

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_

By: \_\_\_\_\_ (print name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

Revised July 23, 2012

## ATTACHMENT C – CONTRACT AFFIDAVIT

### A. AUTHORITY

I HEREBY AFFIRM THAT:

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

### B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — ☐ domestic or ☐ foreign;
- (2) Limited Liability Company — ☐ domestic or ☐ foreign;
- (3) Partnership — ☐ domestic or ☐ foreign;
- (4) Statutory Trust — ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: \_\_\_\_\_ Address: \_\_\_\_\_

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID

Number: \_\_\_\_\_ Address: \_\_\_\_\_

### C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

### D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:



I am aware of, and the above business will comply with, Election Law Article, §§14-101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

#### E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

#### I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

#### F. CERTAIN AFFIRMATIONS VALID

##### I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, 201\_\_\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_

By: \_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

Revised July 23, 2012

## ATTACHMENT D – MINORITY BUSINESS ENTERPRISE FORMS

### **PURPOSE**

The Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the Minority Business Enterprise (MBE) goal stated in the Invitation for Bids (IFB). MBE performance shall be in accordance with this Attachment, as authorized by Minority Business Enterprise Policies as set forth by 21.11.03 of the Code of Maryland Regulations (COMAR). Accordingly, the Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

To meet the goal using MBE subcontractors, all Prime Contractors shall:

- ❑ Identify work areas for subcontracting
- ❑ Solicit minority business enterprises through written notice or personal contact
- ❑ Help minority businesses meet bonding requirements or grant them a waiver of bonding requirements
- ❑ Identify their MBE subcontractors at the time they submit their Bids or Proposals

**\*IF THE SOLICITATION CONTAINS MULTIPLE SERVICE CATEGORIES, SEPARATE FORMS ARE REQUIRED FOR EACH SERVICE CATEGORY FOR WHICH A BID/PROPOSAL IS SUBMITTED\***

### **MBE GOAL AND SUB GOALS**

An MBE subcontract participation goal of **5%** of the total contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror agrees that this percentage of the administrative fees paid under the Contract will be performed by certified minority business enterprises.

A prime Contractor — including an MBE prime Contractor — shall accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors. (COMAR 21.11.03.09B(2))

### **SOLICITATION AND CONTRACT FORMATION**

- ◆ A bidder or offeror must include with its bid or offer a completed *Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D-1)* whereby:
  - (1) the bidder or offeror acknowledges the certified MBE participation goal or requests a waiver, commits to making a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
  - (2) the bidder or offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission. The bidder or offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.

If the bidder or offeror specifies a range for a proposed MBE subcontractor, only the lowest amount in the range can be considered for MBE commitment purposes. Ex: If a range of “5-15%” is proposed for a MBE subcontractor, only “5%” can be considered for purposes of totaling the actual MBE commitment for that particular MBE subcontractor. It is suggested that the bidder or offeror provide a specific percentage, and not a percentage range, for each MBE subcontractor proposed.

- ◆ *If a bidder or offeror fails to submit a completed **Attachment D-1** with the bid or offer, the Procurement Officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.*
- ◆ Within 10 Business Days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee shall provide the following documentation to the Procurement Officer:
  - a) **Outreach Efforts Compliance Statement (Attachment D-2)**
  - b) **Subcontractor Project Participation Certification (Attachment D-3)**
  - c) If the apparent awardee has requested a waiver (in whole or in part) of the overall MBE goal, it shall submit a fully documented waiver request that complies with COMAR 21.11.03.11.
  - d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

**NOTE: If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for Contract award. If the Contract has already been awarded, the award is voidable.**

## **MBE REPORTING INSTRUCTIONS**

### **Prime Contractor shall:**

1. Submit by the 10<sup>th</sup> of each month to the Department a Prime Contractor Paid/Unpaid MBE Invoice Report (**Attachment D-4**) listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit by the 10<sup>th</sup> of each month to the Department a Subcontractor Paid/Unpaid MBE Invoice Report (**Attachment D-5**) that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement Department, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### **ATTACHMENTS**

- A. Certified MBE Utilization and Fair Solicitation Affidavit – Attachment D-1 (must be submitted with the Bid or Proposal)
- B. Outreach Efforts Compliance Statement – Attachment D-2 (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)
- C. Subcontractor Project Participation Certification – Attachment D-3 (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)
- D. Prime Contractor Paid/Unpaid MBE Invoice Report – Attachment D-4 (must be submitted by the 10<sup>th</sup> of each month by the Prime Contractor)
- E. Subcontractor Paid/Unpaid MBE Invoice Report – Attachment D-5 (must be submitted by the 10<sup>th</sup> of each month by the Subcontractor)
- F. Minority Contractor Unavailability Certificate – Attachment D-6 (must be submitted with the Bid or Proposal if requesting a waiver)

## MDOT Certified MBE Utilization and Fair Solicitation Affidavit

(submit with Bid or Proposal)

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the Bid or Offer, the procurement officer shall deem the Bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the Bid or Offer submitted in response to Solicitation No. 14-10960 I affirm the following:

1. ☐ I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of **5** percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):
- |                                 |                              |
|---------------------------------|------------------------------|
| _____ percent African-American  | _____ percent Asian-American |
| _____ percent Hispanic-American | _____ percent Woman-Owned    |
- Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

**OR**

- ☐ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 Business Days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.

**OR**

- ☐ I conclude that I am unable to achieve the entire MBE participation goal. I hereby request a partial waiver of the overall goal and have identified the portion of the MBE goal I intend to achieve through a specific commitment of the certified Minority Business Enterprises listed in the MBE Subcontractor Project Participation Schedule (Attachment D3) below. Within 10 Business Days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation (for the portion I am unable to achieve) in accordance with COMAR 21.11.03.11.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 Business Days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
- (a) Outreach Efforts Compliance Statement (Attachment D2)
  - (b) Subcontractor Project Participation Certification (Attachment D3)
  - (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for Contract award. If the Contract has already been awarded, the award is voidable.

<b>Prime Contractor:</b> (Firm Name, Address, Phone)	<b>Project Description:</b>
<b>Project Number:</b>	

**List Information For Each Certified MBE Subcontractor On This Project**

<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	

Continue on a separate page, if needed.

## ***SUMMARY***

Total <i>African-American</i> MBE Participation:	_____ %
Total <i>Asian American</i> MBE Participation:	_____ %
Total <i>Hispanic American</i> MBE Participation:	_____ %
Total <i>Woman-Owned</i> MBE Participation:	_____ %
Total <i>Other</i> Participation:	_____ %
<b>Total <i>All MBE</i> Participation:</b>	_____ %

**Note:** The percentages entered above must total to the actual percentage of contract value to be committed to be paid to MBE subcontractor(s). i.e. if the MBE commitment is “25%,” the actual individual MBE subgroup percentages listed above should total “25%” (Not “100%,” indicating 100% of MBE commitment).

For example, if the MBE goal is 25%, and all proposed MBEs are African-American with a total MBE commitment of 25% of the contract value, the totals under “Total African-American MBE Participation” and “Total *All MBE* Participation” should both be listed as “25%.”

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Bidder/Offeror Name

(PLEASE PRINT OR TYPE)

\_\_\_\_\_  
Signature of Affiant

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**





## Subcontractor Project Participation Certification

*Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1  
within 10 working days of notification of apparent award.*

\_\_\_\_\_ (prime contractor) has entered into a contract with  
\_\_\_\_\_ (subcontractor) to provide services in connection with the Solicitation  
described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	
Total Subcontract Amount \$	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or proposal;
- (3) fail to use the certified minority business enterprise in the performance of the contract; or
- (4) pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

**PRIME CONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
Name, Title  
Date

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
Name, Title  
Date

This form is to be completed  
monthly by the prime  
contractor.

## Attachment D-4

### Maryland Department of Health and Mental Hygiene Minority Business Enterprise Participation Prime Contractor Paid/Unpaid MBE Invoice Report

Report #: _____	Contract #: _____
Reporting Period (Month/Year): _____	Contracting Unit: _____
<b>Report is due to the MBE Officer by the 10<sup>th</sup> of the month following the month the services were provided.</b>	Contract Amount: _____
	MBE Subcontract Amt: _____
	Project Begin Date: _____
	Project End Date: _____
Note: Please number reports in sequence	Services Provided: _____

Prime Contractor:		Contact Person:																																		
Address:																																				
City:		State:	ZIP:																																	
Phone:	FAX:	E-mail:																																		
Subcontractor Name:		Contact Person:																																		
Phone:	FAX:																																			
Subcontractor Services Provided:																																				
<b>List all payments made to MBE subcontractor named above during this reporting period:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice#</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			<b>List dates and amounts of any outstanding invoices:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice #</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr><td colspan="3"><b>Total Dollars Unpaid: \$</b> _____</td></tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Unpaid: \$</b> _____		
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<b>Total Dollars Unpaid: \$</b> _____																																				
<b>Total Dollars Paid: \$</b> _____																																				

\*\*If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.

**\*\*Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____
_____

This form must be completed  
monthly by all MBE subcontractors.

## ATTACHMENT D-5

### Minority Business Enterprise Participation Subcontractor Paid/Unpaid MBE Invoice Report

Report#: _____	Contract #
Reporting Period (Month/Year): _____	Contracting Unit:
<b>Report is due by the 10<sup>th</sup> of the month following the month the services were performed.</b>	MBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:																																
MDOT Certification #:																																
Contact Person:	E-mail:																															
Address:																																
City: Baltimore	State:	ZIP:																														
Phone:	FAX:																															
<b>Subcontractor Services Provided:</b>																																
<b>List all payments received from Prime Contractor during reporting period indicated above.</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td><b>Total Dollars Paid: \$</b></td> <td colspan="2">_____</td> </tr> </tbody> </table>			<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			<b>Total Dollars Paid: \$</b>	_____		<b>List dates and amounts of any unpaid invoices over 30 days old.</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td><b>Total Dollars Unpaid: \$</b></td> <td colspan="2">_____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			<b>Total Dollars Unpaid: \$</b>	_____	
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<b>Total Dollars Paid: \$</b>	_____																															
	<u>Invoice Amt</u>	<u>Date</u>																														
1.																																
2.																																
3.																																
<b>Total Dollars Unpaid: \$</b>	_____																															
Prime Contractor:	Contact Person:																															

**\*\*Return one copy of this form to the following address (electronic copy with signature & date is preferred):**

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____
_____

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)

**MARYLAND DEPARTMENT OF HEALTH & MENTAL HYGIENE**  
**Code of Maryland Regulations (COMAR)**  
**Title 21, State Procurement Regulations**  
*(regarding a waiver to a Minority Business Enterprise subcontracting goal)*

**NOTE: Below is an excerpt only. Full text of COMAR Title 21 may be found at the website of the Secretary of State, Division of State Documents, at: <http://www.dsd.state.md.us/comar/>.**

**COMAR 21.11.03.11 - Waiver.**

A. If, for any reason, the apparent successful bidder or offeror is unable to achieve the contract goal for each certified MBE classification specified as having a subcontract goal or the overall MBE contract goal, the bidder or offeror may request, in writing, a waiver to include the following:

(1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs, including the work to be performed by each MBE classification if an MBE subgoal has been specified, in order to increase the likelihood of achieving the stated goal;

(2) A detailed statement of the efforts made to contact and negotiate with certified MBEs, and if appropriate, by certified MBE classification, including:

(a) The names, addresses, dates, telephone numbers, and classification of certified MBEs contacted, and

(b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;

(3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;

(4) A list of certified MBEs including, if applicable, certified MBEs in each MBE classification, found to be unavailable, which shall be accompanied by an MBE unavailability verification form signed by the certified MBE, or a statement from the apparent successful bidder or offeror that the certified MBE refused to give the written verification;

(5) The record of the apparent successful bidder's or offeror's compliance with the outreach efforts required under Regulation .09C(2)(a)—(e) of this chapter; and

(6) If the request for a waiver is for a certain MBE classification within an overall MBE goal, the bidder or offeror shall demonstrate reasonable efforts to meet the overall MBE goal with other MBE classification or classifications.

B. A waiver of a certified MBE contract goal may be granted only upon a reasonable demonstration by the bidder or offeror that certified MBE subcontract participation was unable to be obtained, or was unable to be obtained at a reasonable price or in the appropriate MBE classifications, and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other Bids or offers and subcontract Bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.

C. An agency head may waive any of the provisions of Regulations .09—.10 of this chapter for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.

D. When a waiver is granted, except waivers under §C of this regulation, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE liaison officer with another copy forwarded to the Office of Minority Affairs.

**MINORITY CONTRACTOR UNAVAILABILITY CERTIFICATE**

**Section I (to be completed by PRIME CONTRACTOR)**

I hereby certify that the firm  
of \_\_\_\_\_

(Name of Prime Contractor)

located at \_\_\_\_\_,  
(Number) (Street) (City) (State) (Zip)

on \_\_\_\_\_ contacted certified minority business enterprise, \_\_\_\_\_  
(Date) (Name of Minority Business)

\_\_\_\_\_ located at \_\_\_\_\_,  
(Number) (Street) (City) (State) (Zip)

seeking to obtain a bid for work/service for project number \_\_\_\_\_, project  
name \_\_\_\_\_

List below the type of work/ service requested:

Indicate the type of bid sought, \_\_\_\_\_. The minority business enterprise identified  
above is either unavailable for the work /service in relation to project number \_\_\_\_\_, or is unable to  
prepare a bid for the following reasons(s):

The statements contained above are, to the best of my knowledge and belief, true and accurate.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Number)

\_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City)

\_\_\_\_\_  
(State)

\_\_\_\_\_  
(Zip)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Note:** Certified minority business enterprise must complete Section II on reverse side.

**ATTACHMENT D-6 (part 2)**

**Section II (to be completed by CERTIFIED MINORITY BUSINESS ENTERPRISE)**

I hereby certify that the firm of \_\_\_\_\_ MBE Cert.# \_\_\_\_\_  
(Name of MBE Firm)

located at \_\_\_\_\_  
(Number) (Street) (City) (State) (Zip)

was offered the opportunity to bid on project number \_\_\_\_\_, ON \_\_\_\_\_  
(Date)

by \_\_\_\_\_  
(Prime Contractor's Name) (Prime Contractor Official's Name) (Title)

The statements contained in Section I and Section II of this document are, to the best of my knowledge and belief, true and accurate.

\_\_\_\_\_  
(Name) (Title) (Phone)

\_\_\_\_\_  
(Signature) (Fax Number)

**ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM**

**Solicitation Number - DHMH OPASS #14-10960**

**Developmental Disabilities Administration (DDA)  
Utilization Review and Authorization of Services (UR/AOS)**

A Pre-Proposal Conference will be held at 2:00 p.m. on Wednesday, March 20, 2013 at Developmental Disabilities Administration, Central Maryland Regional Office, 1401 Severn Street, Suite 200, Baltimore, Maryland 21230. Please return this form by Monday, March 18, 2013 advising whether or not you plan to attend.

Return via e-mail or fax this form to the Procurement Coordinator:

Michele Ferges  
Developmental Disabilities Administration  
Department of Health and Mental Hygiene  
201 W. Preston Street 4<sup>th</sup> Floor  
Email: Michele.ferges@maryland.gov  
Fax #: 410 767-5850

Please indicate:

\_\_\_\_\_ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

\_\_\_\_\_ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-Proposal Conference”):

---

Signature

Title

---

Name of Firm (please print)



## ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS & FORM

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

The Financial Proposal Form is used to calculate the Offeror's TOTAL EVALUATED PRICE. Follow these instructions carefully when completing your Financial Proposal Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e. .344 shall be 34 and .345 shall be 35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Financial Proposal Form shall be filled in. Any blanks may result in the Financial Proposal being rejected. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Form, nothing shall be entered on the Financial Proposal Form or attached thereto that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12, and may cause the Proposal to be rejected.

The Financial Proposal shall contain all price information in the format specified. Complete the Financial Proposal Form only as provided in the Pricing Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form.

All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. An example of such a cost is interpretation services in the RFP Sec 3.13. Prices shall include, but are not limited to: Labor, Profit/Overhead, General Operating and all other expenses except as expressly excluded in the RFP specifications. No other amounts will be paid to the Contractor.

Unless indicated elsewhere in the RFP, sample amounts used for calculations in the Financial Proposal Form are typically estimates for evaluation purposes, and the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract. Any option to renew will be exercised at the sole discretion of the State and will comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.

**ATTACHMENT F – FINANCIAL PROPOSAL FORM**

## Financial Proposal Form

**Utilization Review/Authorization of Services (UR/AOS) – Statewide—Three year indefinite quantity**

<b>Service Description</b>	<b>Estimated Quantity (over three years)</b>		<b>Price Per Unit</b>		<b>Extended Proposal Price</b>
Performance Audit – Routine	1,500 (500 per year)	x	\$ _____	=	\$ _____
Performance Audit - Additional	150 (50 per year)	x	\$ _____	=	\$ _____
RFSC Form Authorization	10,500 (3,500 per year)	x	\$ _____	=	\$ _____
Add-on Review	12,000 (4,000 per year)	x	\$ _____	=	\$ _____
<b>Total Evaluated* Proposal Price (Sum of all items - Basis of Award):</b>					\$ _____

\* Note: “Evaluated” means the basis of the financial evaluation and ranking and represents the financial portion of the award decision. The amount shown for a total is not the guaranteed price the State will pay for services.

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

FEIN: \_\_\_\_\_

eMM #: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

## ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

### Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements in the Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
    - (a) Has a State contract for services valued at less than \$100,000, or
    - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
  - (2) A Subcontractor who:
    - (a) Performs work on a State contract for services valued at less than \$100,000,
    - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B(3) or C below.
  - (3) Service contracts for the following:
    - (a) Services with a Public Service Company;
    - (b) Services with a nonprofit organization;
    - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.

- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of the Md. Code Ann., State Finance and Procurement Article, Title 18.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in the Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage set at Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State and Finance Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website at <http://www.dllr.state.md.us/labor/> and clicking on Living Wage for State Service contracts.

## ATTACHMENT G-1 - MARYLAND LIVING WAGE AFFIDAVIT OF AGREEMENT

Contract No. \_\_\_\_\_ Tier \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

### If the Contract Is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons (check all that apply):

- ☐ Bidder/Offeror is a nonprofit organization
- ☐ Bidder/Offeror is a public service company
- ☐ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- ☐ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

### If the Contract Is a Living Wage Contract

A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms its commitment to comply with the Md. Code Ann., State Finance and Procurement Article, Title 18 and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

B. \_\_\_\_\_ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- ☐ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract

- ☐ The employee(s) proposed to work on the contract is/are 17 years of age or younger during the duration of the contract; or
- ☐ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness Name (Typed or Printed)

\_\_\_\_\_  
Witness Signature Date

**Submit This Affidavit with Bid/Proposal**

## ATTACHMENT H – FEDERAL FUNDS ATTACHMENT

A Summary of Certain Federal Fund Requirements and Restrictions  
[Details of particular laws, which may levy a penalty for noncompliance,  
are available from the Department of Health and Mental Hygiene.]

1. Form and rule enclosed: 18 U.S.C. 1913 and Section 1352 of P.L. 101-121 require that all *prospective* and present subgrantees (this includes all levels of funding) who receive more than \$100,000 in federal funds must submit the form “Certification Against Lobbying.” It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF- LLL.
2. Form and instructions enclosed: “Form LLL, Disclosure of Lobbying Activities” must be submitted by those receiving more than \$100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.
3. Form and summary of Act enclosed: Subrecipients of federal funds on any level must complete a “Certification Regarding Environmental Tobacco Smoke, required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education, or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.
4. In addition, federal law requires that:
  - A) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations requires that grantees (both recipients and subrecipients) which expend a total of \$500,000 or more in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act of 1996, P.L. 104-156, and the Office of Management and Budget (OBM) Circular A-133. All subgrantee audit reports, performed in compliance with the aforementioned Circular shall be forwarded within 30 days of report issuance to the DHMH, External Audit Division, Spring Grove Hospital-Tuerk Bldg., 55 Wade Avenue, Baltimore, MD 21228.
  - B) All subrecipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).
  - C) Recipients of \$10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.

This clause must appear in subcontracts of \$10,000 or more:

- a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.
- c) In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.
- d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation- programs, activities, and facilities and employment. It states, among other things, that:

*Grantees that provide health ... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective*



*notice with regard to benefits, services, and waivers of rights or consents to treatments.*

- D) All subrecipients comply with Title VI of the Civil Rights Act of 1964, that they must not discriminate in participation by race, color, or national origin.
- E) All subrecipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate in excess of Executive Level 1 per year. (This includes, but is not limited to, subrecipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)
- F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.
- G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.
- H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally done during the application process rather than after the award is made, as with other assurances and certifications.]
- I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.

Rev. 3/2008

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Public Health Service  
Health Resources and  
Service Administration  
Rockville, MD 20857

### **CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source or applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization agrees that it will require that the language of this certification be included in any subawards which contain provisions for children's services and that all subrecipients shall certify accordingly.

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Signature of Authorized Certifying Individual

**U.S. Department of Health and Human Services**

**CERTIFICATION REGARDING LOBBYING**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Award No.	Organization Entity
Name and Title of Official for Organization Entity	Telephone No. of Signing Official
Signature of Above Official	Date Signed

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. Contract <input type="checkbox"/> b. Grant <input type="checkbox"/> c. Cooperative Agreement <input type="checkbox"/> d. Loan <input type="checkbox"/> e. Loan guarantee <input type="checkbox"/> f. Loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. Bid/offer/application <input type="checkbox"/> b. Initial award <input type="checkbox"/> c. Post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. Initial filing <input type="checkbox"/> b. Material change For Material Change Only: Year _____ quarter _____ Date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee    Tier _____, if known:  Congressional District, <i>if known</i> : _____		<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, <i>if known</i> : _____
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, <i>if applicable</i> : _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>  \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i> _____		
<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a) (last name, first name, MI):</i> _____		
<b>11. Amount of Payment</b> <i>(check all that apply)</i> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>13. Type of Payment</b> <i>(check all that apply)</i> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
<b>12. Form of Payment</b> <i>(check all that apply)</i> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:</b>  <div style="text-align: center;">(attach Continuation Sheet(s) SF-LLLA, if necessary)</div>		
<b>15. Continuation Sheet(s) SF-LLLA attached:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<div style="display: flex;"> <div style="flex: 1;"> <b>16.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.         </div> <div style="flex: 1; padding-left: 20px;">           Signature: _____            Print Name: _____            Title: _____            Telephone No.: _____      Date: _____         </div> </div>		

**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
10. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## **ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE**

### **Reference COMAR 21.05.08.08**

- A. “Conflict of interest” means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- B. “Person” has the meaning stated in COMAR 21.01.02.01B(64) and includes an Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.
- D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):
- E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
(Authorized Representative and Affiant)

**SUBMIT THIS AFFIDAVIT WITH THE TECHNICAL PROPOSAL**

## ATTACHMENT J – BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between the Developmental Disabilities Administration unit of the Maryland Department of Health and Mental Hygiene (herein referred to as “Covered Entity”) and \_\_\_\_\_ (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

WHEREAS, Covered Entity have a business relationship with Business Associate that is memorialized in a separate agreement (the “Underlying Agreement”) pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 including all pertinent regulations (45 C.F.R. Parts 160 and 64), as amended from time to time, issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (collectively, “HIPAA”); and

WHEREAS, the nature of the contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

WHEREAS, for good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this agreement for the purpose of ensuring compliance with the requirements of HIPAA and the Maryland Confidentiality of Medical Records Act (Md. Ann. Code, Health-General §§4-301 *et seq.*) (“MCMRA”); and

WHEREAS, this Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof;

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

### I. DEFINITIONS.

- A. Individual. “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- B. Breach. “Breach” shall have the same meaning as the term “breach” in 45 C.F.R. § 164.402.
- C. Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. §164.501.
- D. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.
- E. Protected Health Information or PHI. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. §164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- F. Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.501.
- G. Secretary. “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his or her designee.

- H. Unsecured Protected Health Information. “Unsecured Protected Health Information” or “Unsecured PHI” shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in the §13402(h) of the HITECH Act.

## **II. USE OR DISCLOSURE OF PHI BY BUSINESS ASSOCIATE.**

- A. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule.
- B. Business Associate shall only use and disclose PHI if such use or disclosure complies with each applicable requirement of 45 C.F.R. §164.504(e).
- C. Business Associate shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent as Covered Entity.

## **III. DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.**

- A. Business Associate shall not use or disclose PHI other than as permitted or required by this Agreement, the MCMRA, or as Required By Law.
- B. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.
- C. Business Associate shall immediately notify Covered Entity of any use or disclosure of PHI in violation of this Agreement
- D. In addition to its obligations in Section III.C, Business Associate shall document and notify Covered Entity of a Breach of Unsecured PHI. Business Associate’s notification to Covered Entity hereunder shall:
  - 1. Be made to Covered Entity without unreasonable delay and in no case later than fifty (50) calendar days after the incident constituting the Breach is first known, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of clarity for this Section III.D.1, Business Associate must notify Covered Entity of an incident involving the acquisition, access, use or disclosure of PHI in a manner not permitted under 45 C.F.R. Part E within fifty (50) calendar days after an incident even if Business Associate has not conclusively determined within that time that the incident constitutes a Breach as defined by HIPAA;
  - 2. Include the names of the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach;
  - 3. Be in substantially the same form as Exhibit A hereto; and
  - 4. Include a draft letter for the Covered Entity to utilize to notify the Individuals that their Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach that includes, to the extent possible:
    - a) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - b) A description of the types of Unsecured PHI that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);



- c) Any steps the Individuals should take to protect themselves from potential harm resulting from the Breach;
  - d) A brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, to mitigate losses, and to protect against any further Breaches; and
  - e) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website, or postal address.
- E. In the event of an unauthorized use or disclosure of PHI or a Breach of Unsecured PHI, Business Associate shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.
- F. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- G. To the extent applicable, Business Associate shall provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. §164.524.
- H. To the extent applicable, Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of Covered Entity or an Individual.
- I. Business Associate shall, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.
- J. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. §164.528, Business Associate agrees to promptly provide Covered Entity with information in a format and manner sufficient to respond to the individual's request.
- K. Business Associate shall, upon request with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI provided to it by Covered Entity.
- L. Business Associate shall make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with the Privacy Rule. The aforementioned information shall be made available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate shall comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held by Business Associate.
- M. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. §164.502(j)(1).
- N. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for

which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

#### **IV. TERM AND TERMINATION.**

- A. Term. The Term of this Agreement shall be effective as of as of the effective date of the Contract entered into following the solicitation for Developmental Disabilities Administration (DDA) Utilization Review and Authorization of Services (UR/AOS), Solicitation # DHMH OPASS #14-10960, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section IV.
- B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:
1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement;
  2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
  3. If neither termination nor cure is feasible, report the violation to the Secretary.
- C. Effect of Termination.
1. Except as provided in paragraph C(2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall not retain any copies of the PHI.
  2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.
  3. Should Business Associate make an intentional or grossly negligent Breach of PHI in violation of this Agreement or HIPAA or an intentional or grossly negligent disclosure of information protected by the MCMRA, Covered Entity shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.

#### **V. CONSIDERATION**

Business associate recognizes that the promises it has made in this agreement shall, henceforth, be detrimentally relied upon by covered entity in choosing to continue or commence a business relationship with business associate.

#### **VI. REMEDIES IN EVENT OF BREACH**

Business Associate hereby recognizes that irreparable harm will result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections II or III above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section VI shall be in addition to (and not supersede) any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement.

## **VII. MODIFICATION; AMENDMENT**

This Agreement may only be modified or amended through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

## **VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES**

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

## **IX. COMPLIANCE WITH STATE LAW**

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy or Security Rules and the MCMRA conflict regarding the degree of protection provided for protected health information, Business Associate shall comply with the more restrictive protection requirement.

## **X. MISCELLANEOUS.**

- A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
- B. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Ramiek James, Privacy Officer  
Department of Health & Mental Hygiene  
Office of the Inspector General  
201 W. Preston Street, 5th Floor  
Baltimore, MD 21201  
Phone: (410) 767-5411

- D. Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Phone: \_\_\_\_\_

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**COVERED ENTITY:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**BUSINESS ASSOCIATE:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ATTACHMENT J-1 - BREACH OF UNSECURED PROTECTED HEALTH INFORMATION**

**NOTIFICATION TO THE  
MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
ABOUT A BREACH OF UNSECURED PROTECTED HEALTH INFORMATION**

This notification is made pursuant to Section IIID(3) of the Business Associate Agreement between the Developmental Disabilities Administration, a unit of the Maryland Department of Health and Mental Hygiene (DHMH), and

\_\_\_\_\_ (Business Associate).

Business Associate hereby notifies DHMH that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach:

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Date of the breach: \_\_\_\_\_

Date of discovery of the breach: \_\_\_\_\_

Does the breach involve 500 or more individuals? Yes / No

If yes, do the people live in multiple states? Yes / No

Number of individuals affected by the breach: \_\_\_\_\_.

Names of individuals affected by the breach: (attach list)

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code):

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Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches:

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Contact information to ask questions or learn additional information:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

## ATTACHMENT K – NON-DISCLOSURE AGREEMENT (AWARD)

**THIS NON-DISCLOSURE AGREEMENT** (the “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by and between the State of Maryland (the “State”), acting by and through its Department of Health and Mental Hygiene (the “Department”) and \_\_\_\_\_ (the “Contractor”).

### RECITALS

**WHEREAS**, the Contractor has been awarded a contract (the “Contract”) following the solicitation for Request for Proposals (“RFP”) Developmental Disabilities Administration (DDA) Utilization Review and Authorization of Services (UR/AOS) Solicitation # DHMH OPASS #14-10960; and

**WHEREAS**, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor’s employees, agents, and subcontractors (collectively the “Contractor’s Personnel”) with access to certain information the State deems confidential information (the “Confidential Information”).

**NOW, THEREFORE**, in consideration of being given access to the Confidential Information in connection with the RFP and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute a copy of this Agreement and thereby be subject to the terms and conditions of this Agreement to the same extent as the Contractor. Contractor shall update Exhibit A by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the RFP or who will otherwise have a role in performing any aspect of the RFP, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor’s Personnel or the Contractor’s former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. Contractor shall, at its own expense, return to the Department all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract. Confidential Information returned to the State shall be accompanied by the Certification that is attached hereto and made a part hereof as Exhibit B and shall be signed by an officer of the Contractor authorized to bind the Contractor.
7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
  - a. This Agreement shall be governed by the laws of the State of Maryland;
  - b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
  - c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
  - d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
  - e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
  - f. The Recitals are not merely prefatory but are an integral part hereof; and
  - g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

**IN WITNESS WHEREOF**, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

Contractor: \_\_\_\_\_

MD Department of Health and Mental Hygiene

By: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**NON-DISCLOSURE AGREEMENT - EXHIBIT A**

**LIST OF CONTRACTOR’S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS  
TO THE CONFIDENTIAL INFORMATION**

<b>Printed Name and Address of Individual/Agent</b>	<b>Employee (E) or Agent (A) Date</b>	<b>Signature</b>



**NON-DISCLOSURE AGREEMENT - EXHIBIT B**

**CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Agreement by and between the State of Maryland and \_\_\_\_\_ (“Contractor”) dated \_\_\_\_\_, 20\_\_\_\_ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, HAVING MADE DUE INQUIRY.**

DATE: \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

BY: \_\_\_\_\_  
(Signature)

TITLE: \_\_\_\_\_  
(Authorized Representative and Affiant)

## ATTACHMENT L – VETERAN-OWNED SMALL BUSINESS ENTERPRISE

### VSBE ATTACHMENT L1

Veteran-Owned Small Business  
Enterprise (VSBE) Utilization Affidavit and  
Subcontractor Participation Schedule

*(submit with bid or offer)*

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to properly complete and submit this form with the bid or offer, the procurement officer may determine that the bid is non-responsive or that the proposal is not reasonably susceptible of being selected for award.

In conjunction with the bid or proposal submitted in response to Solicitation No. \_\_\_\_\_, I affirm the following:

1. ☐ I acknowledge and intend to meet the overall verified VSBE participation goal of .5%. Therefore, I will not be seeking a waiver.

**OR**

- ☐ I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.
  - (a) Subcontractor Project Participation Statement (**Attachment L2**)
  - (b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the VSBE participation goal.

I acknowledge that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, VSBE subcontractors were provided not less than the same information and amount of time to respond as were non-VSBE subcontractors.
4. Set forth below are the (i) verified VSBEs I intend to use and (ii) the percentage of the total contract amount allocated to each VSBE for this project. I hereby affirm that the VSBE firms are only providing those products and services for which they are verified.

### VSBE Subcontractor Participation Schedule

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: DHMH OPASS ____ - _____	

#### List Information For Each Verified VSBE Subcontractor On This Project

Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	
Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	
Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	
Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	

Continue on a separate page, if needed.

## SUMMARY

**TOTAL VSBE Participation:** \_\_\_\_\_%

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
 Bidder/Offeror Name  
 (PLEASE PRINT OR TYPE)

Signature of Affiant

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

<b>VSBE Subcontractor Project Participation Statement</b>
---

*Please complete and submit one form for each verified VSBE listed on Attachment L1  
within 10 working days of notification of apparent award*

\_\_\_\_\_ (prime contractor) has entered into a contract with  
\_\_\_\_\_ (subcontractor) to provide services in connection with the Solicitation  
described below.

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: DHMH OPASS ____ - _____	Total Contract Amount: \$
Name of Veteran-Owned Firm:	DUNS Number:
Work to Be Performed:	
Percentage of Total Contract:	Total Subcontract Amount: \$

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

**PRIME CONTRACTOR SIGNATURE**

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
Name, Title  
Date

By: \_\_\_\_\_  
Name, Title  
Date

This form is to be completed  
monthly by the prime  
contractor.

## Attachment L3

### Maryland Department of Health and Mental Hygiene Veterans Small Business Enterprise Participation Prime Contractor Paid/Unpaid VSBE Invoice Report

Report #: _____	Contract #: _____
Reporting Period (Month/Year): _____	Contracting Unit: _____
<b>Report is due to the VSBE Officer by the 10<sup>th</sup> of the month following the month the services were provided.</b>	Contract Amount: _____
	VSBE Subcontract Amt: _____
	Project Begin Date: _____
	Project End Date: _____
<b>Note: Please number reports in sequence</b>	Services Provided: _____

Prime Contractor:		Contact Person:																																		
Address:																																				
City:		State:	ZIP:																																	
Phone:	FAX:	E-mail:																																		
Subcontractor Name:		Contact Person:																																		
Phone:	FAX:																																			
Subcontractor Services Provided:																																				
<b>List all payments made to VSBE subcontractor named above during this reporting period:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice#</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			<b>List dates and amounts of any outstanding invoices:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice #</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Unpaid: \$</b></td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Unpaid: \$</b>		_____
	<u>Invoice#</u>	<u>Amount</u>																																		
1.																																				
2.																																				
3.																																				
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1.																																				
2.																																				
3.																																				
4.																																				
<b>Total Dollars Unpaid: \$</b>		_____																																		
<b>Total Dollars Paid: \$</b> _____																																				

\*\*If more than one MBE subcontractor is used for this contract, you must use separate M-3 forms.

**\*\*Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

Nancy Hatch                      Contract Monitor Developmental Disabilities Administration Department of Health and Mental Hygiene 201 W. Preston Street    4 <sup>th</sup> Floor Baltimore, MD 21201 410 767-5431 / 410 767-5850 <a href="mailto:nancy.hatch@maryland.gov">nancy.hatch@maryland.gov</a>	Michele Ferges    Procurement Coordinator Developmental Disabilities Administration Department of Health and Mental Hygiene 201 W. Preston Street    4 <sup>th</sup> Floor Baltimore, MD 21201 410 767-6001 / 410 767-5850 <a href="mailto:michele.ferges@maryland.gov">michele.ferges@maryland.gov</a>
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**Veterans Small Business Enterprise Participation  
Subcontractor Paid/Unpaid VSBE Invoice Report**

Report#: _____	Contract #
Reporting Period (Month/Year): _____	Contracting Unit:
<b>Report is due by the 10<sup>th</sup> of the month following the month the services were performed.</b>	VSBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

VSBE Subcontractor Name:																																
MDOT Certification #:																																
Contact Person:	E-mail:																															
Address:																																
City: Baltimore	State:	ZIP:																														
Phone:	FAX:																															
<b>Subcontractor Services Provided:</b>																																
<b>List all payments received from Prime Contractor during reporting period indicated above.</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3"><b>Total Dollars Paid: \$</b> _____</td> </tr> </tbody> </table>			<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			<b>Total Dollars Paid: \$</b> _____			<b>List dates and amounts of any unpaid invoices over 30 days old.</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3"><b>Total Dollars Unpaid: \$</b> _____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			<b>Total Dollars Unpaid: \$</b> _____		
	<u>Invoice Amt</u>	<u>Date</u>																														
1.																																
2.																																
3.																																
<b>Total Dollars Paid: \$</b> _____																																
	<u>Invoice Amt</u>	<u>Date</u>																														
1.																																
2.																																
3.																																
<b>Total Dollars Unpaid: \$</b> _____																																
Prime Contractor:		Contact Person:																														

**\*\*Return one copy of this form to the following address (electronic copy with signature & date is preferred):**

Nancy Hatch      Contract Monitor Developmental Disabilities Administration Department of Health and Mental Hygiene 201 W. Preston Street 4 <sup>th</sup> Floor Baltimore, MD 21201 410 767-5431 / 410 767-5850 <a href="mailto:nancy.hatch@maryland.gov">nancy.hatch@maryland.gov</a>	Michele Ferges   Procurement Coordinator Developmental Disabilities Administration Department of Health and Mental Hygiene 201 W. Preston Street 4 <sup>th</sup> Floor Baltimore, MD 21201 410 767-6001 / 410 767-5850 <a href="mailto:michele.ferges@maryland.gov">michele.ferges@maryland.gov</a>
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Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)

## ATTACHMENT M – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

This document **must** be included with the bid or offer.

Pursuant to Md. Ann. Code, State Finance and Procurement Article, § 12-111, and in conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, the following disclosures are hereby made:

1. At the time of bid or proposal submission, the bidder/offeror and/or its proposed subcontractors:

\_\_\_\_\_ have plans

\_\_\_\_\_ have **no** plans

to perform any services required under the resulting Contract outside of the United States.

2. If services required under the contract are anticipated to be performed outside the United States by either the bidder/offeror or its proposed subcontractors, the bidder/offeror shall answer the following (attach additional pages if necessary):

a. Location(s) services will be performed:

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b. Reasons why it is necessary or advantageous to perform services outside the United States:

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The undersigned, being an authorized representative of the bidder/offeror, hereby affirms that the contents of this disclosure are true to the best of my knowledge, information, and belief.

Date: \_\_\_\_\_

Bidder/Offeror Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Please be advised that the Department may contract for services provided outside of the United States if: the services are not available in the United States; the price of services in the United States exceeds by an unreasonable amount the price of services provided outside the United States; or the quality of services in the United States is substantially less than the quality of comparably priced services provided outside the United States.

**ATTACHMENT N – CERTIFICATION REGARDING INVESTMENTS IN IRAN**

**CERTIFICATION REGARDING INVESTMENTS IN IRAN**

1. The undersigned certifies that, in accordance with State Finance & Procurement Article, §17-705:
  - (i) it is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in §17-702 of State Finance & Procurement; and
  - (ii) it is not engaging in investment activities in Iran as described in State Finance & Procurement Article, §17-702.
2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities:

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Date: \_\_\_\_\_

Bidder/Offeror Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**ATTACHMENT O – AUDIT REPORT FOR FAMILY/INDIVIDUAL SUPPORT SERVICES FORM**

Name:

Location:

Audit Date:

<b>1. Demographics</b>	
<b>Name</b>	
<b>Address</b>	
<b>Support Program</b>	
<b>Date Service Began</b>	
<b>Revisions</b>	
<b>Audit Date</b>	
<b>Region</b>	
<b>County</b>	
<b>Provider</b>	
<b>Dates of Audit Period</b>	<b>From: To:</b>
<b>Setting</b>	
<b>Auditor</b>	

<b>2. Documents Reviewed</b>

<b>3. Actual Funding Amount for Fiscal Year 20_____ reported by PCIS2:</b>
--

<b>4. How does the agency disperse funds to the individual?</b>	
	<b>Dollar Amount</b>
<b>Total staff salaries/wages</b>	\$
<b>Mileage reimbursement paid to staff</b>	\$
<b>Total staff fringe benefits (403b/401k, vacation, health insurance)</b>	\$
<b>Total employer taxes and liabilities (payroll tax, worker's compensation, unemployment insurance)</b>	\$
<b>Total rent</b>	\$
<b>Total utilities</b>	\$
<b>Total food</b>	\$
<b>Total recreation expenses (including camps)</b>	\$
<b>Medical treatments (doctors, surgeries, lab work, etc.)</b>	
<b>Medical equipment (hearing aids, wheelchairs, ramps, etc.)</b>	
<b>Counseling, psychological, or psychiatric treatments</b>	\$
<b>Equipment expenses</b>	\$

Name:  
 Location:  
 Audit Date:







<b>4. (Continued)</b>		
<b>Miscellaneous expenses the agency wishes to claim (specify type of expense):</b>		
		\$
		\$
		\$
<b>Total Cost Center expenses for Fiscal Year 20_____</b>		
<b>Individual budget surplus + or deficit -</b>		
<b>Comments:</b>		

<b>5.</b>	<b>Total number of support hours per the Service Funding Plan and the total number of hours accounted for.</b>		
<b>Anticipated:</b>		<b>Accounted:</b>	<b>Discrepancy:</b>
<b>Total:</b>		<b>Total:</b>	<b>Total:</b>
<b>Hours per week:</b>	<b>Weeks:</b>	<b>Percentage:</b>	<b>Percentage:</b>
<b>Comments:</b>			

<b>6.</b>	<b>Service Funding Plan</b>	<b>Individual Plan</b>	<b>Record Review</b>	<b>Interview</b>
<b>Date</b>				
<b>Support Hours</b>				
<b>Supports Specified</b>			Confirmed	Confirmed
<b>Comments:</b>				

Name:  
 Location:  
 Audit Date:

<b>7.</b>	<b>Persons interviewed and dates:</b>
	<b>Interview questions (devised by the auditor based on site visit findings) and answers provided by individual supported and concerned others (family, advocates, etc.)</b>
<b>A.</b>	
<b>B.</b>	
<b>C.</b>	
<b>D.</b>	

<b>8. Consumer Satisfaction Survey. Ask the interviewee for more information about his/her support services experience. The interviewee need not participate in the survey. Ask person interviewed to please rate each of the following:</b>					
	<b>Strongly Agree</b>	<b>Agree</b>	<b>Undecided</b>	<b>Disagree</b>	<b>Strongly Disagree</b>
<b>I chose where to have the interview</b>					
<b>The interviewer talked to me with respect</b>					
<b>I liked the interview</b>					
<b>I understood the interview</b>					
<b>I was able to make comments or ask question</b>					
<b>I would tell other people to talk to</b> _____					

<b>9.</b>	<b>Audit Findings</b>
<b>Was there a funding discrepancy? Yes/No</b>	
<b>Comments:</b>	

Community Service Reviewer

**ATTACHMENT P – CSLA UTILIZATION REVIEW AUDIT FORM**

Name:  
Agency:  
Date:

Person Served			
Address of Person Served		Different address from PCIS2?	
Alternative Informant and Contact Information			
Date Service Began			
Date of Audit			
Region		County of Service:	
Provider of Service			
Dates of time period audited			
CSLA Setting			
Auditor			

**Record Audit Portion**

1.	Service Funding Plan	Individual Plan	Record Review		Interview		Comments
Date							
Support Hours							
Supports Identified			Confirmed	Not Confirmed	Confirmed	Not Confirmed	

Name:  
 Agency:  
 Date:

2. Documents Reviewed	

3. Total number of support hours per the Service Funding Plan and the total number of hours accounted for			
Anticipated		Accounted	Discrepancy
Total:		Total:	Total:
Hours per week:	Number of weeks:	Weekly Average:	Weekly Average
Describe the Staff Support Outlined in the SFP (schedules, times, environments, etc.):			
Support hours accounted:			
Determination of Shared Hours if any:			
Summary of Attendance:			
Comments:			

4. Supplemental Services		
Anticipated:	Accounted:	Discrepancy:
Anticipated:	Accounted:	Discrepancy:
Anticipated:	Accounted:	Discrepancy:
Anticipated:	Accounted:	Discrepancy:
Comments:		



Name:  
Agency:  
Date:

5. Professional Services		
Anticipated:	Accounted:	Discrepancy:
Anticipated:	Accounted:	Discrepancy:
Anticipated:	Accounted:	Discrepancy:
Comments:		

### Interview Portion

6. List of Persons Interviewed

*The following questions are not necessarily the question posed verbatim, as individuals may gain further explanations specific to them and their situation.*

7. Do you and your support network participate in the planning process?	
8. Are your needs being met?	
9. Does the staff providing services match the names identified in the staff logs, payroll records and/or progress notes?	
10. Does the agency come out, call or send you surveys to ensure that you are getting the support that your are supposed to be getting on a regular basis?	
11. Do you have some say in who supports you?	
12. Are you being treated with dignity and respect?	
13. Are you pleased with the staff person(s) provided by the agency?	
<b>Strongly Agree</b> <b>Agree</b> <b>Undecided</b> <b>Disagree</b> <b>Strongly Disagree</b> 	
14. Are you generally pleased with the services being provided?	
<b>Strongly Agree</b> <b>Agree</b> <b>Undecided</b> <b>Disagree</b> <b>Strongly Disagree</b> 	
Comments:	

Name:  
Agency:  
Date:

15. Summary of Support Hours and Supplemental Services

16. Summary of Implementation	
A. Are the reasons for the support services identified in the SFP?	
B. Are the specific services being delivered as described in the SFP?	
C. Are the specific services being delivered as described in the IP?	
D. Do the logs and staff notes reflect that funded services were provided?	

17. Summary of Satisfaction

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Lead Community Service Reviewer

Date

**ATTACHMENT Q – AUDIT MATERIAL CHECKLIST AND PRELIMINARY FINDINGS  
HEALTHCARE FORM**

**Name of Person Served:** \_\_\_\_\_ **Agency:** \_\_\_\_\_

**PLEASE NOTE THAT ALL DOCUMENTATION MUST BE COPIED PRIOR TO THE  
AUDIT DATE AND PRESENTED TO THE CONTRACTOR ON THE DATE OF THE  
REVIEW.**

Copy of documents (agency to check)	Copy presented to Contractor (auditor to check)	Documentation to be presented at the time of the CSLA audit used to support the findings of the report	Documentation to be forwarded by agency following audit	Comments
		Most Current Service Funding Plan		
		Person Centered Plan in use during the audited period (Support Plan and/or IP)		
		Support Staff Schedule		
		Staff Notes and logs (i.e. Activity Logs)		
		Payroll Records of staff providing identified supports (i.e. Time Sheets)		
		CSLA Attendance Records		
		Record of payment for professional and contractual staff ( i.e. invoices, contracts, PO's)		
		Other Documentation providing evidence of support		

**Preliminary Findings:**

	<b>Anticipated</b>	<b>Accounted</b>
<b>Support Hours</b>		
<b>Supplemental/Professional</b>		
<b>Reason for above discrepancy:</b>		

Documentation which is to be provided following audit must be submitted to the Contractor within 48 hours of audit. Please fax information to \_\_\_\_\_. DUE DATE:

Agency Signature/Date (to be signed following record review):

Reviewer Signature/Date:



## ATTACHMENT R – REQUEST FOR SERVICE CHANGE FORM

### DEVELOPMENTAL DISABILITIES ADMINISTRATION (DDA) REQUEST FOR SERVICE CHANGE

Request: ☐ Emergency  
☐ Standard

Date of Request:

Annual IP Meeting Date:

Name: Date of

Birth: Address:

Phone: Email:

SS#: MA#:

DDA Program (check one): ☐ Community Pathways Waiver ☐ New Directions Waiver ☒ State Funded Program

Is the service requested a waiver service? ☐ YES ☐ NO

Resource Coordinator (RC) Name and Phone:

Person submitting form (if not RC) Name and Phone:

#### Team Meeting Consensus

Team Meeting Date:

Does the team have consensus related to this request? ☐ YES ☐ NO

If "No" has a request for mediation been submitted to the Regional Office? ☐ Yes insert date ☐ No

Is the Individual Plan Service Summary Attached ☐ YES ☐ NO

**Outcome Desired** - Please note the desired measurable outcome(s) below.

Effective: 10/8/10

**Service Request** - Please describe what service change is needed to achieve the desired outcome (add pages as needed):

**Check applicable boxes:**

- |  |   |
|--|---|
| <input type="checkbox"/> SEEKING A NEW SERVICE   | (Adding a new service)  |
| <input type="checkbox"/> DELETING A SERVICE  | (Deleting a current service)  |
| <input type="checkbox"/> CHANGING SERVICE  |   |
| (Changing from Day to Supported Employment, Residential to Community Supported Living Arrangement, etc.) |   |
| <input type="checkbox"/> SAME SERVICE – DIFFERENT SITE   | (Currently receiving this service but site location has changed)    |
| <input type="checkbox"/> SAME SERVICE – DIFFERENT PROVIDER   | (Currently receiving this service but there will be a new provider) |
| <input type="checkbox"/> SAME SERVICE –DIFFERENT INTENSITY   | (Same service but change in intensity or staffing)                  |
| <input type="checkbox"/> SAME SERVICE –DIFFERENT SERVICE MODEL   | (Change in residential model such as Group Home to ALU)             |

Effective: 10/8/10

**Resource Exploration** - What other resources/services/strategies have been explored (i.e. health insurance, generic services, etc.) and the results of any referrals (add pages as necessary):

**Health and Safety** - Please describe the individual's health and safety status and attach supporting documentation if applicable:

Effective: 10/8/10

**Documentation Provided – Check all that apply:**

- |  |  |
|--|--|
| <input type="checkbox"/> Team Meeting Notes                | <input type="checkbox"/> Evidence of charges against caregiver |
| <input type="checkbox"/> IP Service Summary Addendum Sheet | <input type="checkbox"/> Police report                         |
| <input type="checkbox"/> Physician Orders                  | <input type="checkbox"/> Behavioral Data - summarized          |
| <input type="checkbox"/> Medical Assessment/Evaluation     | <input type="checkbox"/> Sleep Chart                           |
| <input type="checkbox"/> Hospital discharge summary        | <input type="checkbox"/> DORS Report                           |
| <input type="checkbox"/> Summary of Nursing 45 day review  | <input type="checkbox"/> Acceptance/Denial Letters             |
| <input type="checkbox"/> Nursing Assessment                | <input type="checkbox"/> Eviction notice                       |
| <input type="checkbox"/> Social Services Report (i.e. APS) | <input type="checkbox"/> Resource Coordinator assessment       |
| <input type="checkbox"/> Risk Assessment                   | <input type="checkbox"/> Other: <input type="text"/>           |
| <input type="checkbox"/> DDA/OHCQ Report                   | <input type="checkbox"/> Other: <input type="text"/>           |
|  | <input type="checkbox"/> Other: <input type="text"/>           |

**Projected length of service need:**

☐ (  ) week(s) ☐ 1 month ☐ 3 month ☐ 6 month ☐ Ongoing ☐ Other:

**Projected Start Date:**

**Individual Choice:** At times team members and family members may ask for a more or less restrictive setting or other services than what the individual may want. Does this information and request reflect the **individual's choice** and preference based on information regarding viable services and supports? ☐ YES ☐ NO - if no please explain:

**Signatures:**

Individual's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Legal Guardian's Signature (if applicable): \_\_\_\_\_

Date: \_\_\_\_\_

Person Submitting Form Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Effective: 10/8/10